

CITY UTILITIES COMMITTEE

AGENDA

NOVEMBER 27, 2001

- A. ADOPTION OF AGENDA
- B. APPROVAL OF MINUTES
- C. 94 G. O. BOND INFRASTRUCTURE PROJECTS UPDATE, DPW
- D. PUBLIC HEARINGS

ORDINANCES FOR SECOND READING

- 01-O-1909 (1) An Ordinance by Councilmember Vern McCarty authorizing the Mayor or his designee to rename Thirkeld Avenue, SE in its entirety to Loretta Kimpson Avenue, SE; and for other purposes. **(Advertised for a Public Hearing 11/27/01 at 9:00 a.m.)**
- 01-O-1936 (2) An Ordinance by Councilmembers Lee Morris and Clair Muller authorizing the Mayor or his designee to rename Dilbeck Place to Everett Lane; and for other purposes. **(Advertised for a Public Hearing 11/27/01 at 9:00 a.m.)**
- 01-O-1937 (3) An Ordinance by Councilmembers Lee Morris and Clair Muller authorizing the Mayor or his designee to rename Junction Avenue to Jessie Junction; and for other purposes. **(Advertised for a Public Hearing 11/27/01 at 9:00 a.m.)**

E. ORDINANCES FOR SECOND READING

- 01-O-1444 (1) An Ordinance by Councilmembers Clair Muller and Cathy Woolard **as substituted#2 by City Utilities Committee** to amend the City of Atlanta Code of Ordinances by establishing and adopting a new Article VII of Chapter 74 entitled "Riparian Buffer Requirements"; to rescind Ordinance 01-O-0709; and for other purposes. **(Forwarded with no recommendation on substitute 11/13/01; Referred back from Council 11/19/01)**

City Utilities Committee Agenda
November 27, 2001
Page Two

ORDINANCES FOR SECOND READING (CONT'D)

- 01-O-1452 (2) An Ordinance by Councilmember Debi Starnes **as substituted#2 by City Utilities Committee** to amend Ordinances Numbers: 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 and to authorize the Mayor to accept 22,025 square feet of land in exchange for the City's abandonment of a portion of McAfee St., NW, Simpson St., NW, Venable St., NW, Hull St., NW and Fowler St., NW, owned by and located in the City of Atlanta, Georgia; and for other purposes. **(Forwarded with no recommendation on condition 11/13/01; Referred back from Council 11/19/01)**
- 01-O-1464 (3) An Ordinance by Councilmember Cleta Winslow **as substituted by City Utilities Committee** amending Section 154-28 and 154-120 of City's Code of Ordinances to establish policies and procedures for the administration and collection of water and sewer billings; and for other purposes. **(Forwarded with no recommendation 11/13/01; Referred back from Council 11/19/01)**
- 01-O-1577 (4) An Ordinance by Councilmembers "Able" Mable Thomas, Derrick Boazman, Michael J. Bond, Sherry Dorsey, Lee Morris, Clair Muller, Cathy Woolard, Jim Maddox, Doug Alexander, Julia Emmons and Cleta Winslow to amend Section 138-8 Street name change of the Code of Ordinances of the City of Atlanta so as to add additional notification criteria; and for other purposes. **(Filed 11/13/01; Referred back from Council 11/19/01)**
- 01-O-1641 (5) An Ordinance by Councilmember Clair Muller rescinding Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 which authorized the abandonment of a portion of McAfee St., NW, Simpson St., NW, Venable St., NW, Hull St., NW and Fowler St., NW owned by and located in the City of Atlanta, Georgia; and for other purposes. **(Forwarded with no recommendation 11/13/01; Referred back from Council 11/19/01)**

City Utilities Committee Agenda

November 27, 2001

Page Three

ORDINANCES FOR SECOND READING (CONT'D)

- 01-O-1827 (6) An Ordinance by City Utilities Committee authorizing the Mayor to enter into an agreement with the Georgia Tech Foundation Real Estate Holding Corporation for the construction and operation of private utility facilities crossing under Spring Street; and to waive the requirement for bonding and rental payments; and for other purposes.
- 01-O-1886 (7) An Ordinance by Councilmember Derrick Boazman to amend Section 138-128 of Article V of the Code of Ordinances of the City of Atlanta so as to require that any franchisee which is not current in the payment of its franchise fees shall not be issued any permit by the City of Atlanta; and for other purposes. **(Forwarded with no recommendation 11/13/01; Referred back from Council 11/19/01)**
- 01-O-1906 (8) An Ordinance by Councilmember Vern McCarty to amend Section 138-127 (h1) of the City of Atlanta Code of Ordinances to reduce the Telecommunication Franchisee Fee from three (3%) percent to two (2%) percent; and for other purposes. **(Adversed 11/13/01; Referred back from Council 11/19/01)**
- 01-O-1984 (9) An Ordinance by Councilmember Michael J. Bond to rename a portion of Raymond Street, SW to S.N.C.C. Square; and for other purposes. **(To be advertised for a Public Hearing)**
- 01-O-2001 (10) An Ordinance by Councilmember Clair Muller to transfer \$200,000.00 from the 1994 Bond Referendum Program Stormwater Reserve Fund to Stormwater Control Projects for Peachtree Creek, Atlanta Memorial Park East and west of Northside Drive.
- 01-O-2004 (11) An Ordinance by Councilmember Clair Muller amending Article II, Division 3 Rates and Charges Section of the City of Atlanta's Code of Ordinances; and for other purposes.

F. RESOLUTIONS

- 01-R-0347 (1) A Resolution by Councilmember Lee Morris to request the Department of Public Works to proceed with the immediate emergency repair of certain sidewalks located on Hosea Williams Boulevard. **(Filed 11/13/01; Referred back from Council 11/19/01)**

City Utilities Committee Agenda
November 27, 2001
Page Four

RESOLUTIONS (CONT'D)

- 01-R-1957 (2) A Resolution by City Utilities Committee authorizing the Mayor to approve an amended **Notice to Proceed** with Williams-Russell and Johnson, Inc., for Indian Creek Trunk Sewer Design Project, in an amount not to exceed \$690,900.00. All contracted work shall be charged to and paid from Fund, Account and Center Numbers: 1C33 524001 M24I012692BB - \$18,496.74; 1C37 574001 M24I012692BB-\$348,555.44; 1C39 574001 M24I012692BB-\$323,847.82.
- 01-R-1958 (3) A Resolution by City Utilities Committee authorizing the Mayor to approve an amended **Notice to Proceed** for CH2M Hill/TOC, Inc., A Joint Venture, for Infrastructure Sewer Capital Projects, for FC-6710-96A, Annual Architectural and Engineering Services, in an amount not to exceed \$1,889,147.00. All contracted work shall be charged to and paid from Fund, Account and Center Numbers: 1C33 574001 M24I014892BB; 1C33 524001 M24I014892BB; 1C33 524001 M22F016192BA; 1C37 574001 M22F016192BA; 1C39 574001 M24I014892BB; 1C39 574001 M22F016192BA.
- 01-R-1989 (4) A Resolution by Councilmembers Michael J. Bond and Vern McCarty authorizing the Mayor to negotiate a Franchise Agreement with CityNet Telecommunications, Inc., for the provision of telecommunications infrastructure using public sewers; and for other purposes.

G. PAPERS HELD IN COMMITTEE

- 00-O-1105 (1) An Ordinance by Councilmembers Lee Morris, Debi Starnes and Clair Muller to impose a moratorium on permits to cut in city rights-of-way until adequate controls are in place to protect the public health, safety and welfare; and for other purposes. **(Held 8/1/00)**
- 00-O-1662 (2) An Ordinance by Councilmember Lee Morris to protect the residential community on Midvale Drive from commercial cut-through traffic and to cut down on the risk of traffic accidents by restricting truck traffic on Midvale Drive. **(Held 10/31/00)**

City Utilities Committee Agenda
November 27, 2001
Page Five

PAPERS HELD IN COMMITTEE (CONT'D)

- 01-O-0237 (3) An Ordinance by City Utilities Committee to repeal Ordinance No. 00-O-1660 which waives 30% of the City of Atlanta Solid Waste Service Fee for Senior Citizens with annual incomes of less than \$39,000.00; and for other purposes. **(Held 2/27/01)**
- 01-O-0238 (4) An Ordinance by City Utilities Committee to repeal subsection (b) of Section 130-82 of the Atlanta City Code exempting citizens with an annual income of less than \$8,000.00 from the \$30.00 fee per year for solid waste recycling services; and for other purposes. **(Held 2/27/01)**
- 01-R-0451 (5) A Resolution by Councilmembers "Able" Mable Thomas, Doug Alexander and Michael J. Bond authorizing the Mayor or his designee to pursue a systematic approach to how wastewater treatment for the City will be handled; and for other purposes. **(Held 3/13/01)**
- 01-O-0894 (6) An Ordinance by Councilmembers Cleta Winslow, Michael J. Bond and Jim Maddox to **abandon** a portion of Wellborn Street, SW from _____ lying and being in Land Lot 108 of the 14th District Fulton County Georgia; and for other purposes. **(Held 6/12/01)**
- 01-O-1465 (7) An Ordinance by Councilmembers Michael J. Bond and "Able" Mable Thomas to **abandon** a portion of Mitchell Street, SW between Tatnall Street, SW and Beckwith Court, SW; and to convey said abandoned street at no cost to Morris Brown College; to waive the provisions of Section 2-1578 of the Code of Ordinances; provided however, that Section 2-1578 (b) requiring certain notifications and Section 138-9(f) insofar as it pertains to the advertisement and public hearing requirement, shall not be waived; and for other purposes. **(To advertised for a Public Hearing) (Held 09/11/01)**

City Utilities Committee Agenda
November 27, 2001
Page Six

PAPERS HELD IN COMMITTEE (CONT'D)

- 01-O-1719 (8) An Ordinance by Councilmember Clair Muller amending Chapter 154 Article III, Division 3, Sections 154-111 and 154-112 (Water Rates and Charges) and Chapter 154 Article V, Division 3, Sections 154-276 and 154-277 (Sewer Rates and Charges) to increase the water and sewer rates for the City of Atlanta, Georgia to be charged all residents, premises and facilities served by the water and sewer system of the City; and for other purposes. **(Held 10/31/01) (Public Hearing held 11/5/01)**
- 01-R-1794 (9) A Resolution by City Utilities Committee to request the Department of Public Works to proceed with the installation of sidewalks on Havenridge Drive, NW; and for other purposes. **(Favorable on Condition by City Utilities Committee) (Referred back by Council 11/5/01) (Held 11/13/01)**
- 01-R-1873 (10) A Resolution by Councilmember C. T. Martin authorizing the City of Atlanta to establish a Pilot Project for High Tech/Self Cleaning Public Toilets; and for other purposes. **(Held 11/13/01)**
- 01-O-1890 (11) An Ordinance by Councilmember Lee Morris to close the driveway access on Old Ivy Road to and from the Piedmont Center Complex; and for other purposes. **(Held 11/13/01)**
- 01-O-1899 (12) An Ordinance by Councilmembers Michael J. Bond and Vern McCarty authorizing the **abandonment** of a public street known as Chappell St., SW from Northside Drive to Peters Street, SW located in the City of Atlanta, Georgia; and for other purposes. **(Held 11/13/01) (To be advertised for a Public Hearing)**

H. ITEMS NOT ON AGENDA

I. ADJOURNMENT

**AN ORDINANCE BY
COUNCILMEMBER VERN McCARTY**

01-0 -1909

**AUTHORIZING THE MAYOR OR HIS DESIGNEE
TO RENAME THIRKELD AVENUE, SE IN ITS
ENTIRETY TO LORETTA KIMPSON AVENUE, SE;
AND FOR OTHER PURPOSES.**

*Vern E
McCarty*

WHEREAS, the street currently known as Thirkeld Avenue, SE is within the corporate boundaries of the City of Atlanta; and

WHEREAS, Ms. Loretta Kimpson was an active community leader that led by example, raising the bar high not only for herself, but for those who followed her; and

WHEREAS, Ms. Loretta Kimpson had a desire to see that not only her five children, but all children were actively involved in school, church and their community; and

WHEREAS, Ms. Loretta Kimpson was instrumental in organizing a church/community choir, a recreation center to help keep all children active and positively involved with their community; and

WHEREAS, Ms. Loretta Kimpson was considered a beacon to the community and to children everywhere and was the recipient of numerous awards and citations for her service and her unwavering dedication to children; and

WHEREAS, notice and a public hearing on the proposed street name change will be done in accordance with the Code of Ordinances; and

WHEREAS, this will address any concerns the neighbors and the affected business community may have and will not cause any undue hardships for anyone.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That the Mayor or his designee is authorized to rename Thirkeld Avenue, SE in its entirety to Loretta Kimpson Avenue, SE.

SECTION 2: The changes are effective upon the Mayor's approval.

SECTION 3: That the appropriate City agencies, including but not limited to the Departments of Police, Fire and Public Works, Bureau of Planning and the Clerk of Council, are hereby directed to take such steps as are necessary to have the name changed on street signs, maps and other official documents and markers.

SECTION 4: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

Awards and Commendations

- 1960..... *Parent of the Year: Lena Jean Campbell Elementary School*
- 1961..... *Atlanta Urban League: Outstanding Services to the Atlanta Community*
- 1965-66..... *Atlanta Urban League: Outstanding Services to the Atlanta Community*
- 1969..... *Coca-Cola Iota Bronze Woman in Citizenship*
Zeta Phi Lambda Sorority, Delta Chapter Woman of the Year 1969 for services rendered in the Field of Citizenship Community Service Award
- 1973..... *Emmanuel Baptist Church - Achievement Award for Outstanding Community Services, Mayor Sam Massell*
The Loretta Johnson Kimpson Recreation Building - For Outstanding Contributions to the South Atlanta Community: As a Civic Worker, Neighborhood Leader, Church Official and Fighter of Poverty, Despair and Apathy; Board of Alderman-City of Atlanta Park Committee Ordinance Naming Recreation Building at Thirkield Avenue Park Award for Outstanding Services in Community Leadership in the Price NSC, Services Rendered 1965-73 Price NSC.
- 1979..... *Certificate of Merit: Mayor Maynard Jackson for Distinguished Achievements In Your Neighborhood Planning Unit*
- 1981..... *Community Service Award*
- 1983..... *Certificate of Appreciation, Mt. Pleasant Food Program*
- 1986..... *Certificate of Recognition: Support of Recreational Program*
- 1989..... *Certificate of Merit: Mayor Andrew Young*
- 1991..... *Community Services Award*
- 1995..... *Community Service Award John C. Birdine Community Center*

Obituary

A TIME TO BE BORN - Mrs. Loretta Johnson Kimpson was born in Covington (Rockdale County) Georgia on October 16, 1913 to the late Lucius and Mary Johnson.

A TIME TO GROW - She attended Booker T. Washington High School where she played the French Horn in the school band. Loretta was a majorette and sung in the chorus under the direction of the renowned Graham Jackson.

A TIME TO LOVE - Loretta was united in holy matrimony with the late Alfred Edward Kimpson on March 4, 1934 and to this union five children were born; Alfred Jr., Mary Alice, Willene, Patricia and Wayman.

A TIME TO SERVE - Mrs. Kimpson was taught from an early age to worship God, serve her fellow man and take care of her family. She did not stray from her teachings and was an active church worker and community worker all of her life. Loretta was the founder of the Providence Baptist Church Children's Choir, where many of the children in the South Atlanta Community participated. Mrs. Kimpson saw a need for a place for young people to engage in constructive activity. This need led her to establish the Loretta Johnson Kimpson Neighborhood Center. She was an exemplary and committed leader to her community, friends and the City of Atlanta where she received numerous awards and honors for her service.

A TIME TO DIE - On November 11, 1995 God embraced Loretta Johnson Kimpson in His arms and enfolded her in His love, and took her to her heavenly home.

A TIME TO REMEMBER - Mrs. Kimpson leaves to cherish her memory Mr. and Mrs. Alfred (Muriel) Kimpson, Jr., Mr. and Mrs. David (Mary Alice) Rucker, Mr. and Mrs. Otis (Willena) Price, Elder and Mrs. Robert (Patricia) Williams, Mr. and Mrs. Wayman (Jean) Kimpson, Ms. Betty Adams and Mr. and Mrs. Troy (Patricia) Henderson. A sister-in-law Mrs. Elise Kimpson of Detroit, MI. Twenty grand-children, twenty-two great grand-children and two great great grand-children and a host of relatives and friends.

AN ORDINANCE BY

COUNCILMEMBERS LEE MORRIS AND CLAIR MULLER

01-0-1937

**AN ORDINANCE AUTHORIZING THE MAYOR
OR HIS DESIGNEE TO RENAME JUNCTION
AVENUE TO JESSIE JUNCTION; AND FOR
OTHER PURPOSES.**

WHEREAS, the street currently known as Junction Avenue is within the corporate boundaries of the City of Atlanta; and

WHEREAS, the street has no residents and the renaming of it will have no impact on anyone; and

WHEREAS, notice and a public hearing on the proposed street name change will be done in accordance with the Code of Ordinances to ensure the process has been followed.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Junction Avenue in its entirety be renamed Jessie Junction.

SECTION 2: The changes are effective upon the Mayor's approval.

SECTION 3: That the appropriate City agencies, including but not limited to the Department of Public Works, Bureau of Planning and the Clerk of Council, are hereby directed to take such steps as are necessary to have the name changed on street signs, maps and other official documents and markers.

SECTION 4: That the cost of advertising for the public hearing and the cost of the signage will be paid for by the District Councilmember.

SECTION 5: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

AN ORDINANCE BY

COUNCILMEMBERS LEE MORRIS AND CLAIR MULLER 01-O-1936

**AN ORDINANCE AUTHORIZING THE MAYOR
OR HIS DESIGNEE TO RENAME DILBECK
PLACE TO EVERETT LANE; AND FOR OTHER
PURPOSES.**

WHEREAS, the street currently known as Dilbeck is within the corporate boundaries of the City of Atlanta; and

WHEREAS, the street has no residents and the renaming of it will have no impact on anyone; and

WHEREAS, notice and a public hearing on the proposed street name change will be done in accordance with the Code of Ordinances to ensure the process has been followed.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Dilbeck Place in its entirety be renamed Everett Lane.

SECTION 2: The changes are effective upon the Mayor's approval.

SECTION 3: That the appropriate City agencies, including but not limited to the Department of Public Works, Bureau of Planning and the Clerk of Council, are hereby directed to take such steps as are necessary to have the name changed on street signs, maps and other official documents and markers.

SECTION 4: That the cost of advertising for the public hearing and the cost of the signage will be paid for by the District Councilmember.

SECTION 5: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

**AN ORDINANCE BY COUNCILMEMBERS CLAIR MULLER
AND CATHY WOOLARD**

AS SUBSTITUTED BY CITY UTILITIES COMMITTEE

**AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE
OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW
ARTICLE VII OF CHAPTER 74 ENTITLED "RIPARIAN BUFFER
REQUIREMENTS"; TO RESCIND ORDINANCE 01-O-0709; AND
FOR OTHER PURPOSES.**

WHEREAS, Ordinance 01-O-0709 was adopted by City Council on May 21, 2001 and was approved by the Mayor on May 25, 2001; and

WHEREAS, the purpose of Ordinance 01-O-0709 was to increase the requirement for streambank buffers from 25 feet to 75 feet for the purpose of protecting water quality, to fulfill the requirements of the Metropolitan River Protection Act, and for other purposes; and

WHEREAS, Ordinance 01-O-0709 placed the expanded stream buffer requirements in Chapter 74, Article II "Land Disturbing Activities" and provided no variance procedures for the expanded stream buffer requirements; and

WHEREAS, the City wishes to locate stream buffer regulations in a separate Article VII of Chapter 74 to be known as "Riparian Buffer Requirements", to provide variance procedures to such requirements, and to broaden the purpose of such requirements beyond erosion and sediment control.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. That Ordinance 01-O-0709 is hereby rescinded in its entirety.

SECTION 2. That Article VII of Chapter 74 of the Code of Ordinances entitled Riparian Buffer Requirements is hereby established.

SECTION 3. That the text for the new Article VII, Riparian Buffer Requirements, shown in Exhibit A, is hereby adopted in its entirety.

SECTION 4: Applications for development permits or the subdivision of land filed between May 25, 2001 and the effective date of this ordinance, may, at the request of the applicant, proceed through the permitting process under the provisions of this ordinance rather than the provisions of Ordinance 01-O-0709.

SECTION 5: It is the intent of this ordinance to prohibit the creation of lots that require a variance from the provisions of Article VII of Chapter 74 as hereby adopted, unless the creation of said lots is the result of an application for subdivision completed and filed, with all necessary supporting documentation according to City Code, on or before May 25, 2001.

SECTION 6: No final subdivision plat shall be approved by the Director of the Bureau of Planning which does not comply with all the provisions of Article VII of Chapter 74 as hereby adopted except under the following circumstances 1) said plat results from of an application for subdivision completed and filed on or before May 25, 2001, with all necessary supporting documentation according to City Code, or 2) said plat is deemed by the Director of the Bureau of Planning to be necessary for the implementation of an adopted City of Atlanta redevelopment plan.

SECTION 7: No variance shall be granted for any lot under the provisions of Article VII of Chapter 74 as hereby adopted for a period of one (1) year following approval of final subdivision plat except under the following circumstances 1) said lot results from an application for subdivision approved under the provisions of SECTION 6, or 2) a previously unknown site condition is discovered that would render the lot substantially or completely unbuildable.

SECTION 8: The Department of Public Works shall produce a map within one (1) year of the effective date of this ordinance which shall depict all perennial and intermittent streams within the City of Atlanta.

11/16/01

EXHIBIT "A"

Chapter 74, Article VII: Riparian Buffer Requirements.

Sec. 74-200. Citation.

This Article may be cited as the "City of Atlanta Riparian Buffer Ordinance."

Sec. 74-201. Purpose and Intent.

The streams and rivers of the City of Atlanta and the riparian areas surrounding them, if preserved in their natural state, provide numerous environmental protection and resource management benefits including the following:

- (a) supply much of the water required by citizens for municipal and industrial uses
- (b) provide habitat for many plant and animal species that only live in riparian areas
- (c) provide stormwater conveyance, storage, and natural drainage
- (d) provide greenspace
- (e) improve the aesthetic appearance of stream corridors
- (f) aid in groundwater recharge which reduces dry weather low flows in streams
- (g) reduce flood velocities and peak flows in streams
- (h) moderate temperature fluctuations within the riparian zone and thermal variations in the metro Atlanta area
- (i) maintain water quality and stream morphology by providing physical stability of streambanks and channels
- (j) cleanse surface and groundwater by filtering pollutants, nutrients, sediment, and other contaminants
- (k) stabilize soils and reduce erosion
- (l) remove pollutants from the air
- (m) provide important wildlife migration corridors
- (n) restore and maintain the chemical, physical, and biological integrity of water resources
- (o) contribute organic matter to the stream which is a source of energy, food and habitat for the aquatic ecosystem
- (p) provide visual and auditory screening
- (q) can provide educational and recreational opportunities

Therefore, the City of Atlanta finds that the protection of the streams and rivers and the riparian areas surrounding them is vital to the health, safety and welfare of its citizens. The purpose and intent of this Article is to manage and protect riparian areas of the City by implementing requirements for the establishment, protection, and maintenance of protective buffers along riparian systems within the City to maintain the public benefits listed in (a) – (q) above.

This Article shall apply to both public and private property within the City of Atlanta.

This Article shall be administered in its entirety by the Department of Public Works unless otherwise specified herein.

Sec. 74-202. Definitions.

Applicant, for the purpose of this Article, means the person who applies for an exemption or variance and who must be the owner of the real property containing the buffer or an authorized agent of the owner.

Buffer, for purposes of this Article, shall mean an area of undisturbed natural vegetation with the goal of undisturbed native vegetation.

Commissioner, means the Commissioner of the Department of Public Works or a designee.

EPD, means the Environmental Protection Division of the State of Georgia Department of Natural Resources.

Impervious surface means any paved, hardened, or structural surface. Such surfaces include but are not limited to buildings, driveways, streets, parking lots, swimming pools, dams, tennis courts, and any other structures that meet the above definition.

Intermittent stream means a stream which contains flowing water at any time of the year which water is not directly related to a storm event.

Jurisdictional Wetland means a wetland area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Perennial stream means a stream or river that flows throughout the year, except during drought.

Waters of the State: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation. (O.C.G.A. 12-7-1)

Wetland Delineation means the establishment of wetland boundaries by a representative of the U.S. Army Corps of Engineers or an authority designated by the Corps.

Sec. 74-203. Application of riparian buffers.

- a) Siting of Buffers for the purpose of determining their extent

All buffers shall abut their subject streams (or jurisdictional wetlands) and shall be measured perpendicularly and horizontally from the top of the nearest stream bank (or delineated wetland edge) outward from the stream (or jurisdictional wetlands).

(b) Width of Required Buffers

Perennial streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Intermittent streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Waters of the state not otherwise covered by this ordinance shall have a 25-foot buffer and their banks shall be maintained as vegetated to prevent erosion and sedimentation.

Jurisdictional wetlands, lying in part or in whole within the boundary of any required stream buffer, shall remain in their undisturbed natural state and shall have a 25-foot buffer such that the stream buffer shall include the extent of the jurisdictional wetland plus its 25-foot buffer. The applicant shall be responsible for providing any necessary information regarding wetland delineation.

Sec 74-204. Relationship to Erosion and Sedimentation Requirements.

During any permitted construction activity, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into a stream buffer, if such practices are not already required by other ordinances.

During any permitted construction activity, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into any perennial streams, intermittent streams, and waters of the state.

Sec. 74-205. Exemptions.

- (a) The following land uses or activities may be exempted from the requirements of this Article by a development permit which allows such uses or activities in those buffers which are in excess of the buffers required by state or federal law. The Commissioner is authorized to issue development permits for such uses or activities on a showing by the applicant that no feasible alternative for the location of the use or activity exists. The Commissioner may include conditions in the development permit to minimize impacts on the buffer.

- (1) Stream crossing by a public transportation route or public utility
- (2) Public transportation route or public utility parallel to a stream
- (3) Public roadway drainage structures and associated Best Management Practices

- (4) Multi-use trails and associated secondary trails which are listed in the City of Atlanta Comprehensive Development Plan
 - (5) Unpaved footpaths that are a maximum of four feet wide and made of natural pervious materials such as wood-chips, bark, or pine straw
 - (6) Municipal water or wastewater intakes or discharges as permitted by EPD
 - (7) Wildlife and fisheries management activities permitted by O.C.G.A. § 12-2-8 as amended
 - (8) Water quality monitoring and stream gauging activities
 - (9) Projects under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.
 - (10) Temporary activities involving the removal, addition, or modification of vegetation as approved by the City Arborist.
 - (11) City of Atlanta water and sewer infrastructure projects.
- (b) All exempted uses shall be located as far from the stream bank as reasonably possible and best management practices shall be required.

Sec. 74-206. Variances.

- (a) The Commissioner of Public Works may grant variances in the form of a development permit allowing intrusion into a riparian buffer which has been set by this Article when due to special conditions, a literal enforcement of the terms of this Article will result in an unnecessary hardship provided that the change in size and location of the buffers or the permitting of such activity will be at least as protective of water quality, as defined by the Clean Water Act (33 U.S.C. 1251-1387), and will be at least as protective of riparian systems in the City of Atlanta with regard to the factors listed in Sec. 74-201 (a) – (q) when conditions and mitigation activities associated with the exemptions or variances are considered.
- (b) No variance shall be granted for any distance or location or any activity permitted which are greater than necessary to alleviate the hardship imposed by a strict application of this article.
- (c) The variance shall not reduce the buffer to a width less than the minimum standards established by state or federal law.
- (d) The Commissioner is authorized, but is not required, to include one or more conditions to a variance as necessary to mitigate the effect of encroaching in the required buffer. Typical conditions for mitigation of the disturbance of the buffer may include but are not limited to:
 - (1) Specified best management practices
 - (2) Buffer or streambank restoration
 - (3) Soil stabilization and/or revegetation
 - (4) Non-disturbance of areas with steep slopes or other sensitive areas
 - (5) Restrictions on cut and fill activities
 - (6) Elevated construction techniques utilizing piers, boardwalks, or similar
 - (7) Protection of trees and vegetative cover

- (8) Reduction of run-off over pre-construction levels
 - (9) Reduction or relocation of existing impervious surface
 - (10) Impervious surface limits
 - (11) On or off site buffer compensation
 - (12) Performance bonding
 - (13) Modifications to site design
- (e) Once a variance is granted, the right to build or maintain a structure built in accordance with the variance shall be transferable to any subsequent owner of the property.

Sec. 74-207. Criteria to be Considered when Permitting Exemptions and Variances.

The Commissioner shall consider the following criteria, where applicable, when reviewing any application for an exemption or variance from the operation of this Article:

(a) Buffer Crossings

- (1) Free-span bridging techniques shall be employed to prevent blockage or constriction of natural drainageways
- (2) Buffer crossings shall minimize any added potential for up stream and down stream flooding
- (3) Direct crossing angles shall be employed
- (4) Construction shall be capable of surviving 100-yr floods
- (5) Banks shall be properly stabilized

(b) Drainage Control

- (1) The crossing of, or encroachment into, the buffer shall be designed so maximize the area of the buffer where the sheet flow discharge of stormwater occurs. The sheet flow of stormwater through the entire buffer-as the goal of the design.
- (2) Where redirection of stormwater is necessary for drainage control, the use of vegetated swales is preferred. Piping or channelization of stormwater through buffers may be authorized by the Commissioner.

(c) Reasonable Economic Use.

The Commissioner shall consider whether the property to be affected by the exemption or variance has a reasonable economic use if the exemption or the variance is denied.

Sec. 74-208. Procedures for Applications for Exemptions and Variances.

- (a) The applicant shall submit a written request for a development permit seeking exemption or variance from the terms of this Article to the Commissioner by making application on a form provided for such purposes. The Commissioner is authorized to require that all reasonable information considered necessary to evaluate an application be supplied.
- (b) Each application shall be signed by the applicant and shall only be accepted after the payment of any required fee.
- (d) All site plans required by the application shall be prepared, signed, and sealed by an Architect, Engineer, or Landscape Architect, registered to practice in the State of Georgia. A separate site plan shall not be required for each item in an application but all required information must be provided.
- (e) An application for a buffer variance request is complete when all of the following materials have been received:
1. A site plan that includes locations of all state waters, intermittent streams, perennial streams, jurisdictional wetlands, floodplain boundaries and other natural features, as determined by a field survey.
 2. A site plan showing the shape, size, topography, slope soils, vegetation and other physical characteristics of the property.
 3. A site plan showing the locations of all structures, impervious surfaces, and the boundaries of the area of soil disturbance, both inside and outside of the buffer. The exact area of the buffer to be impacted shall be accurately and clearly indicated.
 4. A description of the project, with details of the buffer disturbance, and justification for why the disturbance is necessary.
 5. Documentation, including financial analysis, of unusual hardship should the buffer be maintained.
 6. An explanation of why the proposed development is not possible without encroachment into the buffer. The Commissioner may require an analysis that includes alternative plans which demonstrate that no other economically feasible alternatives exist and that the impact which will occur as a result of the proposed exemption or variance is minimized to the extent necessary to remove the economic hardship. All alternative site plans must attempt to meet the same development goals as the original site plan while preventing buffer intrusion.
 7. A calculation of the total area and length of buffer disturbance.
 8. A plan for stormwater and erosion control.
 9. Proposed mitigation, if any, for the buffer disturbance.

10. Any other information reasonably related to any existing criteria or proposed conditions that the Commissioner may require by written request after evaluation of the material submitted by the applicant.

- (f) Failure to supply all information required by an application is grounds of the denial of the application.
- (g) An applicant has thirty days from the date of payment to supply all the information required by an application. In the event that the Commissioner requests in writing that the applicant supply additional information, the time for completion of an application shall be extended for an additional thirty days.
- (h) The recipient of the variance shall post a copy of the variance on a sign not less than six square feet with the words "Notice of Riparian Buffer Variance" in letters not less than four inches high in a conspicuous place on the effected property so that the sign and the permit can be easily viewed from the public street on which the property fronts. Said sign shall be posted no later than 24 hours after the issuance of the variance and shall not be removed for 30 days.
- (i) The recipient of the variance shall also file a notarized affidavit with the clerk of council certifying under penalty of perjury the date on which the sign required in the above paragraph was posted.
- (j) The recipient of the variance shall also file a copy of the variance of the clerk of the Superior Court of where the property is located.

Sec. 74-209. Actions by Commissioner of Public Works.

- (a) The Commissioner may take any of the following actions on an application for an exemption or variance:
 - 1. issue the development permit as applied for;
 - 2. request in writing the applicant supply additional information;
 - 3. issue a development permit with written conditions necessary to assure conformity with the requirements and stated intent of this Article;
 - 4. deny the application.
- (b) If the Commissioner has not: issued a development permit; requested additional information in writing; issued a development permit with conditions; or issued a denial in writing stating the grounds for denial, within thirty (30) days after payment of the application fee, the application shall be considered to have been denied for failure to supply all information requested in the application.
- (c) The parties may agree in writing to extend the deadline for processing any application. An application may be withdrawn by written request at any time prior to

the issuance of a written denial notice without limitation on resubmittal or the requirement of an additional fee.

- (d) If the Commissioner denies any permit for reasons other than failure to supply all required information, the grounds for such denial shall be in writing and shall be sent to the applicant.

1. Within thirty days after notification in writing from the Commissioner that any application has been denied for failure to supply complete information for more than thirty days after payment of the fee for an application which has not been denied for other reasons, any applicant shall have the right to request in writing that the Commissioner review the application for completeness and issue a final decision. The Commissioner must issue a final decision in writing within fifteen (15) days or the grounds for denial on the basis of failure to supply complete information shall be deemed final.

Sec. 74-210. Judicial Review of Decisions of the Commissioner.

Any person who is dissatisfied with a final decision of the Commissioner has the right to appeal said decision to the superior court of the county where the property is located. Such appeals shall be filed within thirty (30) days of the date of the written notice of the decision of the Commissioner.

Sec. 74-211. Relationship to O.C.G.A. § 12-2-8.

The Commissioner is not authorized to issue exemptions or grant variances for any buffer which is the responsibility of Georgia Environmental Protection Division ("EPD") pursuant to O.C.G.A. § 12-2-8. In the event that an applicant is also applying to EPD for a variance under O.C.G.A. § 12-2-8, exemptions or variances from the this Article may be considered concurrently. Receiving a variance from EPD from the operation of O.C.G.A. § 12-2-8 is not grounds for the Commissioner to grant a similar exemption or variance if such exemption or variance does not meet the intent of this Article.

Sec. 74-212. Nonconformities.

Existing structures, including impervious surfaces, shall be exempt from the application of this Article unless the structure or impervious surface is expanded to occupy greater land area inside the buffer, or is moved in whole or in part to any other portion of the buffer area. Any replacement or reconstruction activity within the buffer shall occur within the original footprint or shall require compliance with the provisions of this Article. No development permit is required by this Article for normal repairs, restoration, and renovation performed upon existing structures and impervious surfaces which are nonconforming as of the date of the adoption of this Article

Sec. 74-213. Buffer Management and Maintenance.

The owner shall inspect the buffers periodically for evidence of degradation in regard to the purposes listed in Section 74-201 (a) – (q) and compliance with all other provisions

of this Article. Examples of degradation may include but are not limited to the following: soil erosion within the buffer; stream bank erosion; and blockage of streams. Corrective actions may be required by the City and shall be taken by the owner in a manner to ensure compliance with the terms of this Article.

Sec. 74-214. Enforcement Procedures.

- (a) The Commissioner is authorized and empowered to enforce the requirements of this Article in accordance with the procedures of this section.
- (b) Any enforcement activities for violations of the provisions of this Article which are also violations of Article II and III of Chapter 74 for land-disturbing activities shall be undertaken pursuant to the provisions of Article II and III of Chapter 74.
- (c) Any enforcement activities for violations of the provisions of this Article which are also violations of Chapter 158 for vegetation shall be undertaken pursuant to the provisions of Chapter 158.
- (d) If the Commissioner finds that any person with an exemption or variance has violated a provision of this Article or a condition of their development permit not involving land disturbing activities [Article II and III of Chapter 74] or vegetation [Chapter 158], the Commissioner is authorized to issue stop work orders to cease the activity. Such notice shall be in writing and shall be given to the owner of the property or the permit applicant or the person or persons in charge of the activity on the property and shall state the conditions under which the work may be resumed.
- (e) The Commissioner is authorized to find that when a person has failed to comply with an approved plan for activities permitted under this Article or any conditions contained in a development permit issued under this Article that it is necessary to issue a written notice to comply with the plan or conditions and shall state the time within which such measures must be completed. If the person engaged in the activities permitted under this Article shall fail to comply within the time specified, the person shall be deemed to be in violation of this Article and in addition to other penalties shall be subject to suspension or revocation of any permit issued and may call any bond issued under this Article, or a part thereof, to be forfeited and use the proceeds as necessary to effectuate appropriate mitigation of the disturbance of the buffer and to protect water quality.
- (f) In addition to any other sanctions listed in this Article, all definitions of Section 1-8 of the Code shall remain applicable to this Article.
- (g) In addition to any other sanctions listed in this Article, a person who fails to comply with the provisions of this Article may be liable to the City in civil court for any costs incurred by the City to enforce or correct violations of this Article.

Sec. 74-214 Liability.

Neither the issuance of a development permit or compliance with this Article shall relieve any person from civil liability to any person or property otherwise imposed by law, or constitute the assumption of such liability.

Sec. 74-215. Conflict With Other Regulations.

In the event of a conflict between or among any provisions of this Article, or any other laws, regulations, and policies, the requirement that is most restrictive and protective of water quality shall apply.

Sec. 74-216. Relationship to Metropolitan River Protection Act.

The requirements of this Article shall not preempt any requirements of the Metropolitan River Protection Act for activities within the 2000-foot Chattahoochee River Corridor. Further, the requirements of this Article are intended to fulfill the requirements of the Metropolitan River Protection Act, O.C.G.A. § 12-5-453, which mandate that local jurisdictions adopt regulations governing use of all land which is in the drainage basin of any tributary flowing into the Chattahoochee River Corridor which at a minimum, include buffer areas of adequate width as determined by local governing authorities along all flowing streams in the drainage basin of any tributary, in which buffer areas there will be no land-disturbing activity.

Sec. 74-217. Severability.

Should any section, subsection, clause, or provision of this Article be declared to be invalid, such decision shall not affect the validity of this Article in whole or any part thereof other than the part so declared to be invalid.

**AN ORDINANCE BY COUNCILMEMBERS CLAIR MULLER
AND CATHY WOOLARD**

AS SUBSTITUTED BY CITY UTILITIES COMMITTEE

**AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE
OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW
ARTICLE VII OF CHAPTER 74 ENTITLED "RIPARIAN BUFFER
REQUIREMENTS"; TO RESCIND ORDINANCE 01-O-0709; AND
FOR OTHER PURPOSES.**

WHEREAS, Ordinance 01-O-0709 was adopted by City Council on May 21, 2001 and was approved by the Mayor on May 25, 2001; and

WHEREAS, the purpose of Ordinance 01-O-0709 was to increase the requirement for streambank buffers from 25 feet to 75 feet for the purpose of protecting water quality, to fulfill the requirements of the Metropolitan River Protection Act, and for other purposes; and

WHEREAS, Ordinance 01-O-0709 placed the expanded stream buffer requirements in Chapter 74, Article II "Land Disturbing Activities" and provided no variance procedures for the expanded stream buffer requirements; and

WHEREAS, the City wishes to locate stream buffer regulations in a separate Article VII of Chapter 74 to be known as "Riparian Buffer Requirements", to provide variance procedures to such requirements, and to broaden the purpose of such requirements beyond erosion and sediment control.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. That Ordinance 01-O-0709 is hereby rescinded in its entirety.

SECTION 2. That Article VII of Chapter 74 of the Code of Ordinances entitled Riparian Buffer Requirements is hereby established.

SECTION 3. That the text for the new Article VII, Riparian Buffer Requirements, shown in Exhibit A, is hereby adopted in its entirety.

SECTION 4: Applications for development permits or the subdivision of land filed between May 25, 2001 and the effective date of this ordinance, may, at the request of the applicant, proceed through the permitting process under the provisions of this ordinance rather than the provisions of Ordinance 01-O-0709.

11/9/01

EXHIBIT "A"

Chapter 74, Article VII: Riparian Buffer Requirements.

Sec. 74-x1. Purpose and Intent.

The streams and rivers of the City of Atlanta and the riparian areas surrounding them, if preserved in their natural state, provide numerous environmental protection and resource management benefits including the following:

- (a) supply much of the water required by citizens for municipal and industrial uses
- (b) provide habitat for many plant and animal species that only live in riparian areas
- (c) provide stormwater conveyance, storage, and natural drainage
- (d) provide greenspace
- (e) improve the aesthetic appearance of stream corridors
- (f) aid in groundwater recharge which reduces dry weather low flows
- (g) reduce flood velocities and peak flows
- (h) moderate temperature fluctuations within the riparian zone and thermal variations in the metro Atlanta area
- (i) maintain water quality and stream morphology by providing physical stability of streambanks and channels
- (j) cleanse surface and groundwater by filtering pollutants, nutrients, sediment, and other contaminants
- (k) stabilize soils and reduce erosion
- (l) remove pollutants from the air
- (m) provide important wildlife migration corridors
- (n) restore and maintain the chemical, physical, and biological integrity of water resources
- (o) contribute organic matter to the stream which is a source of energy, food and habitat for the aquatic ecosystem
- (p) provide visual and auditory screening
- (q) can provide educational and recreational opportunities

Therefore, the City of Atlanta finds that the protection of the streams and rivers and the riparian areas surrounding them is vital to the health, safety and economic welfare of its citizens. The purpose and intent of this Article is to manage and protect riparian areas of the City by implementing requirements for the establishment, protection, and maintenance of protective buffers along riparian systems within the City to maintain the public benefits listed in (a) – (q) above.

This Article shall apply to both public and private property within the City of Atlanta.

This Article shall be administered in its entirety by the Department of Public Works unless otherwise specified herein.

(b) Width of Required Buffers

Perennial streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Intermittent streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Waters of the state not otherwise covered by this ordinance shall have a 25-foot buffer and their banks shall be maintained as vegetated to prevent erosion and sedimentation.

Jurisdictional wetlands, lying in part or in whole within the boundary of any required stream buffer, shall remain in their undisturbed natural state and shall have a 25-foot buffer such that the stream buffer shall include the extent of the jurisdictional wetland plus its 25-foot buffer. The applicant shall be responsible for providing any necessary information regarding wetland delineation.

Sec 74-x4. Relationship to Erosion and Sedimentation Requirements.

During any permitted construction activity, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into a stream buffer, if such practices are not already required by other ordinances.

Sec. 74-x5. Exemptions.

(a) The following land uses or activities may be exempted from the requirements of this Article by a development permit which allows such uses or activities in those buffers which are in excess of the buffers required by state or federal law. The Commissioner is authorized to issue development permits for such uses or activities on a showing by the applicant that no feasible alternative for the location of the use or activity exists. The Commissioner may include conditions in the development permit to minimize impacts on the buffer.

- (1) Stream crossing by a public transportation route or public utility
- (2) Public transportation route or public utility parallel to a stream
- (3) Public roadway drainage structures and associated BMPs
- (4) Created wetlands, wet ponds, and associated sediment control facilities deemed to be either necessary for flood control, or of significant benefit to the water quality or habitat of the stream.
- (5) Multi-use trails and associated secondary trails which are listed in the City of Atlanta Comprehensive Development Plan.
- (6) Unpaved footpaths that are a maximum of four feet wide and made of natural pervious materials such as wood-chips, bark, or pine straw
- (7) Municipal water or wastewater intakes or discharges as permitted by EPD

(b) Drainage Control

- (1) The crossing of, or encroachment into the buffer shall be designed so as to maximize the area of the buffer where the sheet flow discharge of stormwater occurs, with the sheet flow through the entire buffer-as the goal of the design
- (2) Where redirection of stormwater is necessary for drainage control, the use of vegetated swales is preferred. Piping or channelization of stormwater through buffers may be authorized by the Commissioner.

(c) Erosion and Sedimentation

During any permitted construction activity in a stream buffer, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into any waters of the state.

(d) Mitigation of Buffer Disturbance

The Commissioner may include such conditions in the issuance of a permit as they are necessary to mitigate the effect of crossing or encroaching in the buffer. The Commissioner may include *one or more* of the following conditions as necessary for mitigation of the disturbance of the buffer:

- (1) Best management practices
- (2) Buffer or streambank restoration
- (3) Soil stabilization and/or revegetation
- (4) Non-disturbance of areas with steep slopes or other sensitive areas
- (5) Restrictions on cut and fill activities
- (6) Elevated construction techniques utilizing piers, boardwalks, or similar
- (7) Protection of trees and vegetative cover
- (8) Reduction of run-off over pre-construction levels
- (9) Reduction or relocation of existing impervious surface
- (10) Impervious surface limits
- (11) On or off site buffer compensation
- (12) Performance bonding
- (13) Modifications to site design

(e) Reasonable Economic Use.

The Commissioner shall consider whether the property to be affected by the exemption or the variance has a reasonable economic use if the exemption or the variance is denied.

Sec. 74-x8. Procedures for Applications for Exemptions and Variances.

(g) An applicant has thirty days from the date of payment to supply all the information required by an application. In the event that the Commissioner requests in writing that the applicant supply additional information, the time for completion of an application shall be extended for an additional thirty days.

(h) An applicant shall be required to post a sign - state the date of final decision of the Commissioner - affidavit of posting (use BOB permit posting language for size)

Sec. 74-x9. Actions by Commissioner of Public Works.

(a) The Commissioner may take any of the following actions on an application for an exemption or variance:

1. issue the development permit as applied for;
2. request in writing the applicant supply additional information;
3. issue a development permit with written conditions necessary to assure conformity with the requirements and stated intent of this part;
4. deny the application.

(b) If the Commissioner has not: issued a development permit; requested additional information in writing; issued a development permit with conditions; or issued a denial in writing stating the grounds for denial, within thirty (30) days after payment of the application fee, the application shall be considered to have been denied for failure to supply all information requested in the application.

(c) The parties may agree in writing to extend the deadline for processing any application. An application may be withdrawn by written request at any time prior to the issuance of a written denial notice without limitation on resubmittal or the requirement of an additional fee.

(d) If the Commissioner denies any permit for reasons other than failure to supply all required information, the grounds for such denial shall be in writing and shall be sent to the applicant.

1. Within thirty days after notification in writing from the Commissioner that any application has been denied for failure to supply complete information or more than thirty days after payment of the fee for an application which has not been denied for other reasons, any applicant shall have the right to request in writing that the Commissioner review the application for completeness and issue a final decision. The Commissioner must issue a final decision in writing within fifteen (15) days or the grounds for denial on the basis of failure to supply complete information shall be deemed final.

Sec. 74-x10. Judicial Review of Decisions of the Commissioner.

Any person who is dissatisfied with a final decision of the Commissioner has the right to appeal said decision to the superior court of the county where the property is located.

- (d) If the Commissioner finds that any person with an exemption or variance has violated a provision of this Article or a condition of their development permit not involving land disturbing activities [Article II and III of Chapter 74] or vegetation [Chapter 158], the Commissioner is authorized to issue stop work orders to cease the activity. Such notice shall be in writing and shall be given to the owner of the property or the permit applicant or the person or persons in charge of the activity on the property and shall state the conditions under which the work may be resumed.
- (e) The Commissioner is authorized to find that when a person has failed to comply with an approved plan for activities permitted under this Article or any conditions contained in a development permit issued under this Article that it is necessary to issue a written notice to comply with the plan or conditions and shall state the time within which such measures must be completed. If the person engaged in the activities permitted under this Article shall fail to comply within the time specified, the person shall be deemed to be in violation of this Article and in addition to other penalties shall be subject to suspension or revocation of any permit issued and may call any bond issued under this Article, or a part thereof, to be forfeited and use the proceeds as necessary to effectuate appropriate mitigation of the disturbance of the buffer and to protect water quality.
- (f) In addition to any other sanctions listed in this Article, all definitions of Section 1-8 shall remain applicable to this Article.
- (g) In addition to any other sanctions listed in this Article, a person who fails to comply with the provisions of this Article may be liable to the City in civil court for any costs incurred by the City to enforce or correct violations of this Article.

Sec. 74-x14 Liability.

Neither the issuance of a development permit or compliance with this Article shall relieve any person from civil liability to any person or property otherwise imposed by law, or constitute the assumption of such liability.

Sec. 74-x15. Conflict With Other Regulations.

In the event of a conflict between or among any provisions of this Article, or any other laws, regulations, and policies, the requirement that is most restrictive and protective of water quality shall apply.

Sec. 74-x16. Relationship to Metropolitan River Protection Act.

The requirements of this Article shall not preempt any requirements of the Metropolitan River Protection Act for activities within the 2000-foot Chattahoochee River Corridor. Further, the requirements of this Article are intended to fulfill the requirements of the Metropolitan River Protection Act, O.C.G.A. § 12-5-453, which mandate that local jurisdictions adopt Articles or regulations governing use of all land which is in the drainage basin of any tributary flowing into the Chattahoochee River Corridor which at

**AN ORDINANCE BY COUNCILMEMBERS CLAIR MULLER
AND CATHY WOOLARD**

AS SUBSTITUTED BY CITY UTILITIES COMMITTEE

**AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE
OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW
ARTICLE VII OF CHAPTER 74 ENTITLED "RIPARIAN BUFFER
REQUIREMENTS"; TO RESCIND ORDINANCE 01-O-0709; AND
FOR OTHER PURPOSES.**

WHEREAS, Ordinance 01-O-0709 was adopted by City Council on May 21, 2001 and was approved by the Mayor on May 25, 2001; and

WHEREAS, the purpose of Ordinance 01-O-0709 was to increase the requirement for streambank buffers from 25 feet to 75 feet for the purpose of protecting water quality, to fulfill the requirements of the Metropolitan River Protection Act, and for other purposes; and

WHEREAS, Ordinance 01-O-0709 placed the expanded stream buffer requirements in Chapter 74, Article II "Land Disturbing Activities" and provided no variance procedures for the expanded stream buffer requirements; and

WHEREAS, the City wishes to locate stream buffer regulations in a separate Article VII of Chapter 74 to be known as "Riparian Buffer Requirements", to provide variance procedures to such requirements, and to broaden the purpose of such requirements beyond erosion and sediment control.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. That Ordinance 01-O-0709 is hereby rescinded in its entirety.

SECTION 2. That Article VII of Chapter 74 of the Code of Ordinances entitled Riparian Buffer Requirements is hereby established.

SECTION 3. That the text for the new Article VII, Riparian Buffer Requirements, shown in Exhibit A, is hereby adopted in its entirety.

SECTION 4: Applications for development permits or the subdivision of land filed between May 25, 2001 and the effective date of this ordinance, may, at the request of the applicant, proceed through the permitting process under the provisions of this ordinance rather than the provisions of Ordinance 01-O-0709.

SECTION 5: No new lot or parcel may be created which would require a variance to this article in order to fulfill the intended use, unless the new lot or parcel is the subject of an application filed and completed, with all necessary supporting documentation according to City Code, prior to May 25, 2001.

SECTION 6: The Department of Public Works shall produce a map within one (1) year of the effective date of this ordinance which shall depict all perennial and intermittent streams within the City of Atlanta.

EXHIBIT "A"

Chapter 74, Article VII: Riparian Buffer Requirements.

Sec. 74-x1. Purpose and Intent.

The streams and rivers of the City of Atlanta and the riparian areas surrounding them, if preserved in their natural state, provide numerous environmental protection and resource management benefits including the following:

- (a) supply much of the water required by citizens for municipal and industrial uses
- (b) provide habitat for many plant and animal species that only live in riparian areas
- (c) provide stormwater conveyance, storage, and natural drainage
- (d) provide greenspace
- (e) improve the aesthetic appearance of stream corridors
- (f) aid in groundwater recharge which reduces dry weather low flows
- (g) reduce flood velocities and peak flows
- (h) moderate temperature fluctuations within the riparian zone and thermal variations in the metro Atlanta area
- (i) maintain water quality and stream morphology by providing physical stability of streambanks and channels
- (j) cleanse surface and groundwater by filtering pollutants, nutrients, sediment, and other contaminants
- (k) stabilize soils and reduce erosion
- (l) remove pollutants from the air
- (m) provide important wildlife migration corridors
- (n) restore and maintain the chemical, physical, and biological integrity of water resources
- (o) contribute organic matter to the stream which is a source of energy, food and habitat for the aquatic ecosystem
- (p) provide visual and auditory screening
- (q) can provide educational and recreational opportunities

Therefore, the City of Atlanta finds that the protection of the streams and rivers and the riparian areas surrounding them is vital to the health, safety and economic welfare of its citizens. The purpose and intent of this Article is to manage and protect riparian areas of the City by implementing requirements for the establishment, protection, and maintenance of protective buffers along riparian systems within the City to maintain the public benefits listed in (a) – (q) above.

This Article shall apply to both public and private property within the City of Atlanta.

This Article shall be administered in its entirety by the Department of Public Works unless otherwise specified herein.

Sec. 74-x2. Definitions.

Applicant, for the purpose of this Article, means the person who applies for an exemption or variance and who must be the owner of the real property containing the buffer or an authorized agent of the owner.

Buffer, for purposes of this Article, shall mean an area of undisturbed natural vegetation with the goal of undisturbed native vegetation.

Commissioner, means the Commissioner of the Department of Public Works or a designee.

EPD, means the Environmental Protections Division of the State of Georgia Department of Natural Resources

Impervious surface means any paved, hardened, or structural surface. Such surfaces include but are not limited to buildings, driveways, streets, parking lots, swimming pools, dams, tennis courts, and any other structures that meet the above definition.

Intermittent stream means a stream which contains flowing water at any time of the year which water is not directly related to a storm event.

Jurisdictional Wetland means a wetland area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Perennial stream means a stream or river that flows throughout the year, except during drought

Waters of the State: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation. (O.C.G.A. 12-7-1)

Wetland Delineation means the establishment of wetland boundaries by a representative of the U.S. Army Corps of Engineers or an authority designated by the Corps.

Sec. 74-x3. Application of stream buffers.

(a) Siting of Buffers for the purpose of determining their extent

All buffers shall abut their subject streams (or jurisdictional wetlands) and shall be measured perpendicularly and horizontally from the top of the nearest stream bank (or delineated wetland edge) outward from the stream (or jurisdictional wetlands).

(b) Width of Required Buffers

Perennial streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Intermittent streams shall have a 75-foot buffer (with the requirement for expansion depending on the presence of jurisdictional wetlands).

Waters of the state excluding perennial and intermittent streams shall have a 25-foot buffer and their banks shall be maintained as vegetated to prevent erosion and sedimentation.

Jurisdictional wetlands, lying in part or in whole within the boundary of any required stream buffer, shall remain in their undisturbed natural state and shall have a 25-foot buffer such that the stream buffer shall include the extent of the jurisdictional wetland plus its 25-foot buffer. The applicant shall be responsible for providing any necessary information regarding wetland delineation.

Sec 74-x4. Relationship to Erosion and Sedimentation Requirements.

During any permitted construction activity, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into a stream buffer, if such practices are not already required by other ordinances.

Sec. 74-x5. Exemptions.

(a) The following land uses or activities may be exempted from the requirements of this Article by a development permit which allows such uses or activities in those buffers which are in excess of the buffers required by state or federal law. The Commissioner is authorized to issue development permits for such uses or activities on a showing by the applicant that no feasible alternative for the location of the use or activity exists. The Commissioner may include conditions in the development permit to minimize impacts on the buffer.

- (1) Stream crossing by a driveway, transportation route, or public utility
- (2) Transportation route or public utility parallel to a stream
- (3) Roadway drainage structures and associated BMPs
- (4) Created wetlands, wet ponds, and associated sediment control facilities deemed to be either necessary for flood control, or of significant benefit to the water quality or habitat of the stream.
- (5) Multi-use trails and associated secondary trails which are listed in the City of Atlanta Comprehensive Development Plan.
- (6) Unpaved footpaths that are a maximum of four feet wide and made of natural pervious materials such as wood-chips, bark, or pine straw
- (7) Municipal water or wastewater intakes or discharges as permitted by EPD.

- (8) Temporary stream, streambank, or habitat restoration projects, for the purpose of restoring the stream or riparian area to an ecologically healthy state
 - (9) Wildlife and fisheries management activities permitted by OCGA § 12-2-8 as amended
 - (10) Water quality monitoring and stream gauging activities
 - (11) Removal or modification of vegetation, as approved by the City Arborist
- (b) All exempted uses shall be located as far from the stream bank as reasonably possible and best management practices shall be required.

Sec. 74-x6. Variances.

(a) The Commissioner of Public Works may grant variances in the size and location of buffers or permit activity in buffers, when due to special conditions, a literal enforcement of the terms of this Article will result in an unnecessary hardship provided that the change in size and location of the buffers or the permitting of such activity will be at least as protective of water quality, as defined by the Clean Water Act, (USC xxxx) and will be at least as protective of riparian systems in the City of Atlanta with regard to the factors listed in Sec. 74-x1 (a) – (q) when conditions and mitigation activities associated with the exemptions or variances are considered.

(b) No variance shall be granted for any distance or location or any activity permitted which greater than is necessary to alleviate the hardship imposed by a strict application of this article.

(c) The variance would not reduce the buffer to a width less than the minimum standards established by state or federal law.

Sec. 74-x7. Criteria to be Considered when Permitting Exemptions and Variances.

The Commissioner shall consider the following criteria, where applicable, when reviewing any application for an exemption or variance from the operation of this Article:

(a) Buffer Crossings

- (1) Crossing widths shall be minimized
- (2) Direct crossing angles shall be employed
- (3) Construction shall be capable of surviving 100-yr floods
- (4) Free-span bridging techniques shall be employed to prevent blockage or constriction of natural drainageways
- (5) Banks shall be properly stabilized

(b) Drainage Control

- (1) The crossing of, or encroachment into the buffer shall be designed so as to maximize the area of the buffer where the sheet flow discharge of stormwater occurs, with the sheet flow through the entire buffer-as the goal of the design
- (2) Where redirection of stormwater is necessary for drainage control, the use of vegetated swales is preferred. Piping or channelization of stormwater through buffers may be authorized by the Commissioner.

(c) Erosion and Sedimentation

During any permitted construction activity in a stream buffer, erosion and sedimentation control best management practices as set forth in Articles II and III of this Chapter 74 shall be implemented to prevent the migration of any sediment into any waters of the state.

(d) Mitigation of Buffer Disturbance

The Commissioner may include such conditions in the issuance of a permit for the as are necessary to mitigate the effect of crossing or encroaching in the buffer. The Commissioner —may include one or more following conditions as necessary for mitigation of the disturbance of the buffer:

- (1) Best management practices
- (2) Buffer or streambank restoration
- (3) Soil stabilization and/or revegetation
- (4) Non-disturbance of areas with steep slopes or other sensitive areas
- (5) Restrictions on cut and fill activities
- (6) Elevated construction techniques utilizing piers, boardwalks, or similar
- (7) Protection of trees and vegetative cover
- (8) Reduction of run-off over pre-construction levels
- (9) Reduction or relocation of existing impervious surface
- (10) Impervious surface limits
- (11) On or off site buffer compensation
- (12) Performance bonding
- (13) Water quality monitoring
- (14) Modifications to site design

(e) Reasonable Economic Use.

The Commissioner shall consider whether the property to be affected by the exemption or the variance has a reasonable economic use if the exemption or the variance is denied.

Sec. 74-x8. Procedures for Applications for Exemptions and Variances.

- (a) The applicant shall submit a written request for an exemption or variance from the terms of this Article to the Commissioner on a form provided for such purposes.
- (b) Each application shall be signed by the applicant and shall only be accepted after the payment of any required fee.
- (d) All site plans required by the application shall be prepared, signed, and sealed by an Architect, Engineer, Landscape Architect registered to practice in the State of Georgia. A separate site plan shall not be required for each item in an application but all required information must be provided
- (e) An application for a buffer variance request is complete when all of the following materials have been received:
 - 1. A site plan that includes locations of all state waters, jurisdictional wetlands, floodplain boundaries and other natural features, as determined by a field survey.
 - 2. A site plan showing of the shape, size, topography, slope soils, vegetation and other physical characteristics of the property.
 - 3. A site plan showing the locations of all structures, impervious surfaces, and the boundaries of the area of soil disturbance, both inside and outside of the buffer. The exact area of the buffer to be impacted shall be accurately and clearly indicated.
 - 4. A description of the project, with details of the buffer disturbance, and justification for why the disturbance is necessary.
 - 5. Documentation, including financial analysis, of unusual hardship should the buffer be maintained.
 - 6. An explanation of why the proposed development is not possible without encroachment into the buffer. The Commissioner may require an analysis that includes alternative plans which demonstrate that no other economically feasible alternatives exist and that the impact which will occur as a result of the proposed exemption or variance is minimized to the extent necessary to remove the economic hardship. All alternative site plans must attempt to meet the same development goals as the original site plan while preventing buffer intrusion.
 - 7. A calculation of the total area and length of buffer disturbance.
 - 8. A plan for stormwater and erosion control
 - 9. Proposed mitigation, if any, for the buffer disturbance
 - 10. Any other information reasonably related to the project that the Commissioner may deem necessary to effectively evaluate the application.
- (f) Failure to supply all information required by an application is grounds of the denial of the application.
- (g) An applicant has thirty days from the date of payment to supply all the information required by an application. In the event that the Commissioner requests

in writing that the applicant supply additional information, the time for completion of an application shall be extended for an additional thirty days.

Sec. 74-x9. Actions by Commissioner of Public Works.

- (a) The Commissioner may take any of the following actions on an application for an exemption or variance:
 - 1. issue the development permit as applied for;
 - 2. request in writing the applicant supply additional information;
 - 3. issue a development permit with written conditions necessary to assure conformity with the requirements and stated intent of this part;
 - 4. deny the application.
- (b) If the Commissioner has not: issued a development permit; requested additional information in writing; issued a development permit with conditions; or issued a denial in writing stating the grounds for denial, within thirty (30) days after payment of the application fee, the application shall be considered to have been denied for failure to supply all information requested in the application.
- (c) The parties may agree in writing to extend the deadline for processing any application. An application may be withdrawn by written request at any time prior to the issuance of a written denial notice without limitation on resubmittal or the requirement of an additional fee.
- (d) If the Commissioner denies any permit for reasons other than failure to supply all required information, the grounds for such denial shall be in writing and shall be sent to the applicant.
 - 1. Within thirty days after notification in writing from the Commissioner that any application has been denied for failure to supply complete information or more than thirty days after payment of the fee for an application which has not been denied for other reasons, any applicant shall have the right to request in writing that the Commissioner review the application for completeness and issue a final decision. The Commissioner must issue a final decision in writing within fifteen (15) days or the grounds for denial on the basis of failure to supply complete information shall be deemed final.

Sec. 74-x10. Judicial Review of Decisions of the Commissioner.

Any applicant who is dissatisfied with a final decision of the Commissioner has the right to appeal said decision to the superior court of the county where the property is located. Such appeals shall be filed within thirty (30) days of the date of the written notice of the decision of the Commissioner.

Sec. 74-x11. Relationship to O.C.G.A. § 12-2-8.

The Commissioner is not authorized to issue exemptions or grant variances for any buffer which are the responsibility of Georgia Environmental Protection Division("EPD") pursuant to O.C.G.A. § 12-2-8. In the event that an applicant is also applying to EPD for a variance under O.C.G.A. § 12-2-8, exemptions or variances from the this Article may be considered concurrently. Receiving a variance from EPD from the operation of O.C.G.A. § 12-2-8 is not grounds for the Commissioner to grant a similar exemption or variance if such exemption or variance does not meet the intent of this Article.

Sec. 74-x12. Nonconformities.

Existing structures, including impervious surfaces, shall be exempt from the operation of this Article unless the structure or impervious surface is expanded to occupy greater land area; is moved in whole or in part to any other portion of the property. Any replacement or reconstruction activity shall occur in the original footprint or shall require compliance with the provisions of this Article. Normal repairs, restoration, and renovation may be performed upon nonconforming structures and impervious surfaces.

Sec. 74-x13. Buffer Management and Maintenance.

All buffers shall be managed to enhance and maximize the unique value of riparian resources. The owner shall inspect the buffers periodically for evidence of degradation in regard to the purposes listed in Section 74-x1 (a) – (q) and compliance with all other provisions of this article. Corrective actions may be required by the City and shall be taken by the owner in a manner to ensure the integrity and functions of the buffer consistent with the terms of this Article.

Sec. 74-x14. Enforcement Procedures.

- (a) The Commissioner is authorized and empowered to enforce the requirements of this Article in accordance with the procedures of this section.
- (b) Any enforcement activities for violations of the provisions of this Article which are also violations of Article III of Chapter 74. for involving land-disturbing activities shall be undertaken pursuant to the provisions of Article III of Chapter 74.
- (c) Any enforcement activities for violations of the provisions of this Article which are also violations of Chapter 158 for involving vegetation shall be undertaken pursuant to the provisions of Chapter 158.
- (d) If the Commissioner finds that any person with an exemption or variance has violated a provision of this Article or a condition of their development permit not involving land disturbing activities [Article III of Chapter 74] or vegetation [Chapter 158], the Commissioner is authorized to issue stop work orders to cease the activity. Such notice shall be in writing and shall be given to the owner of the property or the permit applicant or the person or persons in charge of the activity on the property and shall state the conditions under which the work may be resumed.

- (e) The Commissioner is authorized to find that when a person has failed to comply with an approved plan for activities permitted under this Article or any conditions contained in a development permit issued under this Article that it is necessary to issue a written notice to comply with the plan or conditions and shall state the time within which such measures must be completed. If the person engaged in the activities permitted under this Article shall fail to comply within the time specified, the person shall be deemed to be in violation of this Article and in addition to other penalties shall be subject to suspension or revocation of any permit issued and may call any bond issued under this Article, or a part thereof, to be forfeited and use the proceeds as necessary to effectuate appropriate mitigation of the disturbance of the buffer and to protect water quality.
- (f) In addition to any other sanctions listed in this Article, all definitions of Section 1-8 shall remain applicable to this Article.
- (g) In addition to any other sanctions listed in this Article, a person who fails to comply with the provisions of this Article may be liable to the City in civil court for any costs incurred by the City to enforce or correct violations of this Article.

Sec. 74-x14 Liability.

Neither the issuance of a development permit or compliance with this Article shall relieve any person from civil liability to any person or property otherwise imposed by law, or constitute the assumption of such liability.

Sec. 74-x15. Conflict With Other Regulations.

In the event of a conflict between or among any provisions of this Article, or any other laws, regulations, and policies, the requirement that is most restrictive and protective of water quality shall apply.

Sec. 74-x16. Relationship to Metropolitan River Protection Act.

The requirements of this Article shall not preempt any requirements of the Metropolitan River Protection Act for activities within the 2000-foot Chattahoochee River Corridor. Further, the requirements of this Article are intended to fulfill the requirements of the Metropolitan River Protection Act, O.C.G.A. § 12-5-453, which mandate that local jurisdictions adopt Articles or regulations governing use of all land which is in the drainage basin of any tributary flowing into the Chattahoochee River Corridor which at a minimum, include buffer areas of adequate width as determined by local governing authorities along all flowing streams in the drainage basin of any tributary, in which areas there will be no land-disturbing activity.

Sec. 74-x17. Severability.

Should any section, subsection, clause, or provision of this Article be declared to be invalid, such decision shall not affect the validity of this Article in whole or any part thereof other than the part so declared to be invalid.

01-0-1444

AN ORDINANCE

BY COUNCILMEMBERS CLAIR MULLER AND CATHY WOOLARD

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES BY ESTABLISHING AND ADOPTING A NEW ARTICLE VII OF CHAPTER 74 ENTITLED "RIPARIAN BUFFER REQUIREMENTS"; TO RESCIND ORDINANCE 01-O-0709; AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 01-O-0709 was adopted by City Council on May 21, 2001 and was approved by the Mayor on May 25, 2001; and

WHEREAS, the purpose of Ordinance 01-O-0709 was to increase the requirement for streambank buffer from 25 feet to 75 feet for the purpose of protecting water quality, to fulfill the requirements of the Metropolitan River Protection Act, and for other purposes; and

WHEREAS, Ordinance 01-O-0709 placed the expanded stream buffer requirements in Chapter 74, Article II "Land Disturbing Activities" and provided no variance or appeal procedures for the expanded stream buffer requirements; and

WHEREAS, the City wishes to locate stream buffer regulations in a separate Article VII of Chapter 74 to be known as "Riparian Buffer Requirements", to provide variance and appeal procedures to such requirements, and to broaden the purpose of such requirements beyond erosion and sediment control.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Ordinance 01-O-0709 is hereby rescinded in its entirety.

SECTION 2. That Article VII of Chapter 74 of the Code of Ordinances entitled Riparian Buffer Requirements is hereby established.

SECTION 3. That the text for the new Article VII, Riparian Buffer Requirements, shown in Exhibit A, is hereby adopted in its entirety.

Exhibit A

Chapter 74, Article VII: Riparian Buffer Requirements.

Sec. 74-x1. Purpose and Intent.

The streams and rivers of the City of Atlanta and the riparian areas surrounding them, if preserved in their natural state, provide numerous environmental protection and resource management benefits including the following:

- (a) supply much of the water required by citizens for municipal and industrial uses
- (b) provide habitat for many plant and animal species that only live in riparian areas
- (c) provide stormwater conveyance, storage, and natural drainage
- (d) provide greenspace
- (e) improve the aesthetic appearance of stream corridors
- (f) aid in groundwater recharge which reduces dry weather low flows
- (g) reduce flood velocities and peak flows
- (h) moderate temperature fluctuations within the riparian zone and thermal variations in the metro Atlanta area
- (i) maintain water quality and stream morphology by providing physical stability of streambanks and channels
- (j) cleanse surface and groundwater by filtering pollutants, nutrients, sediment, and other contaminants
- (k) stabilize soils and reduce erosion
- (l) remove pollutants from the air
- (m) provide important wildlife migration corridors
- (n) restore and maintain the chemical, physical, and biological integrity of water resources
- (o) contribute organic matter to the stream which is a source of energy, food and habitat for the aquatic ecosystem
- (p) provide visual and auditory screening
- (q) can provide educational and recreational opportunities

Therefore, the City finds that the protection of the streams and rivers of the City of Atlanta and the riparian areas surrounding them is vital to the health, safety and economic welfare of its citizens. It is therefore the desire of the City of Atlanta to manage and protect riparian areas of the City by implementing requirements for the establishment, protection, and maintenance of protective buffer zones along all riparian systems within the City to maintain the public benefits listed in (a) – (t) above.

This article shall apply to both public and private property within the City of Atlanta.

Sec. 74-x2. Definitions.

existing use means a land use, which, prior to the effective date of this article, is either:

- (a) completed; or
- (b) ongoing, as in the case of agricultural activity; or

Exhibit A

- (c) fully approved by the governing authority; or
- (d) the subject of a fully completed application, with all necessary supporting documentation, which has been submitted for approval to the governing authority or the appropriate governmental official, for any construction-related permit.

impervious surface means any paved, hardened, or structural surface which does not allow for complete on-site infiltration of precipitation. Such surfaces include but are not limited to buildings, driveways, streets, parking lots, swimming pools, dams, tennis courts, and any other structures that meet the above definition.

major watershed means one of the following major drainage areas: Nancy Creek basin; Peachtree Creek basin (excluding Nancy Creek basin); Proctor Creek basin; Utoy Creek basin; South River basin; the area draining to the Chattahoochee River north of the mouth of Peachtree Creek but not including the Nancy and Peachtree Creek basins; and the area draining to the Chattahoochee River south of the mouth of Peachtree Creek but not including the Proctor and Utoy Creek basins.

perennial stream means a stream or river that flows throughout the year, except during extreme drought.

intermittent stream means a stream which contains flowing water at any time of the year which water is not directly related to a storm event.

ephemeral stream means a drainageway which only carries water during or after a rainstorm.

Sec. 74-x3. Stream Buffer Zones and Required Widths

(a) There shall be two types of required buffer zones as follows:

- (1) *undisturbed natural vegetative zone.* The undisturbed natural vegetative zone shall consist of undisturbed natural vegetation with the goal of undisturbed native vegetation. During permitted construction activity, erosion and sedimentation control devices shall be installed to prevent the migration of any sediment into the undisturbed natural vegetative zone and appropriate tree save devices shall be installed to prevent any construction-related damage to trees or other vegetation in the undisturbed natural vegetative zone. Such devices may be required to be installed a certain distance outside of the undisturbed natural vegetative zone.
- (2) *no impervious surface zone.* The vegetative preference for the no impervious surface zone is natural, undisturbed, forested vegetation, however, other vegetation is allowed including shrubs, grass, and natural groundcover as long as no pesticides are used in the zone. In addition to the other provisions of this article, the following uses are also allowed in the no impervious surface zone: recreational uses; fences which water can

Exhibit A

flow beneath; vegetated yards; and other pervious surfaces that filter stormwater and promote sheet flow through the buffer zones. Trimming and other manipulation of vegetation is permitted as allowed by City code. Land disturbing activity may occur within the no impervious surface zone with a land disturbance permit provided the zone is restored to a state consistent with this subsection 74-x3. (a) (2).

- (b) All provisions of this article shall apply to all buffer zone areas unless explicitly excepted herein.
- (c) Buffer zones shall be applied as follows:
 - (1) The required stream buffer for perennial streams shall consist of a 75-foot undisturbed natural vegetative zone (with the requirement for expansion depending on the presence of jurisdictional wetlands) and a 25-foot (or edge of floodplain plus 15 feet, whichever is greater) no impervious surface zone.
 - (2) The required stream buffer for intermittent streams shall consist of a 50-foot undisturbed natural vegetative zone (with the requirement for expansion depending on the presence of jurisdictional wetlands) and a 25-foot (or edge of floodplain plus 15 feet, which ever is greater) no impervious surface zone.
 - (3) The required stream buffer for ephemeral streams and other waters of the state excluding perennial and intermittent streams shall consist of a 25-foot undisturbed natural vegetative zone. The banks of all ephemeral streams and other waters of the state excluding perennial and intermittent streams shall be maintained as vegetated to prevent erosion and sedimentation.
 - (4) All undisturbed natural vegetative zone widths shall be measured perpendicular and horizontally from the top of the nearest bank outward from the stream. All no impervious surface zones shall be measured from the edge of the required undisturbed natural vegetative zone outward from the stream.
 - (5) When a jurisdictional wetland extends to within 25 feet of the edge of the required undisturbed natural vegetative zone or beyond the edge of the required undisturbed natural vegetative zone, the undisturbed natural vegetative zone width shall be expanded so that the buffer consists of the extent of the jurisdictional wetland plus a 25 foot undisturbed natural vegetative buffer extending beyond the delineated wetland edge.
 - (6) No impervious surfaces, existing or proposed, shall count toward required buffer zone area calculations.
 - (7) There shall be no piping or channelized flow of streams or stormwater in the required buffer zones. Stormwater discharge across the buffer zones shall be designed to ensure sheet flow is

Exhibit A

established through the entire buffer width and to prevent channelized flow through the stream buffers.

Sec. 74-x4. Prohibited Uses.

The following uses shall be prohibited in all required buffer zone areas:

- (a) any land-disturbing activity including cut or fill activities
- (b) any construction activity which increases or relocates impervious surface
- (c) any disturbance or clearing of vegetation
- (d) septic tanks and septic tank drain fields
- (e) hazardous or sanitary waste landfills
- (f) toxic, hazardous, or municipal waste receiving and disposal sites
- (g) mining activities
- (h) stormwater retention and detention facilities
- (i) use, storage, or application of fertilizer, animal waste, or pesticides
- (j) agricultural or gardening activities
- (k) any material dredged or otherwise removed from a BMP
- (l) storage or parking of motorized vehicles

Sec. 74-x5. Water Pollution Hazard Setbacks.

The following land uses and/or activities are designated as potential water pollution hazards, and must be set back from any perennial or intermittent stream or any jurisdictional wetland or other water body by the distance indicated below:

- (a) storage of hazardous substances (150 feet)
- (b) above or below ground petroleum storage facilities (150 feet)
- (c) drainfields from on-site sewage disposal and treatment systems including septic systems (100 feet)
- (d) raised septic systems (250 feet)
- (e) solid waste landfills or junkyards (300 feet)
- (f) confined animal feed lot operations (250 feet)
- (g) subsurface discharges from a wastewater treatment plant (100 feet)
- (h) land application of biosolids (100 feet)

Sec. 74-x6. Exceptions.

(a) The following land uses are excepted from the requirements of this article including minor modifications to and routine maintenance on these excepted uses. However, issuance of permits for such uses or activities is contingent upon the completion of a feasibility study that identifies alternative routing and location strategies that do not violate the buffer zone, as well as a mitigation plan to minimize impacts on the buffer zone. All excepted uses shall be located as far from the stream bank as reasonably possible and best management practices shall be required to mitigate any adverse impacts on water quality.

Exhibit A

- (1) Stream crossing by a driveway, transportation route, or public utility
 - (2) Transportation route or public utility parallel to a stream
 - (3) Created wetlands, wet ponds, and associated sediment control facilities deemed to be either necessary for flood control, or of significant benefit to the water quality or habitat of the stream.
 - (4) Multi-use trails and associated secondary trails constructed of pervious concrete or elevated and that are part of the City of Atlanta Comprehensive Development Plan
 - (5) Unpaved footpaths that are a maximum of four feet wide and made of natural pervious materials such as wood-chips, bark, or pine straw
 - (6) Public water or wastewater intakes or discharges
 - (7) Temporary stream, streambank, or habitat restoration projects, the goal of which is to restore the stream or riparian area to an ecologically healthy state
 - (8) Wildlife and fisheries management activities consistent with the purposes of OCGA 12-2-8 (as amended)
 - (9) Water quality monitoring and stream gauging activities
 - (10) Removal of vegetation, as approved by the City Arborist, including: timber cutting techniques necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire; removal of noxious weeds or non-native species; or removal of individual trees in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream.
- (b) Where buffer crossings are permitted by the provisions of this article or variances hereto, the following conditions shall be met:
- (1) Crossing widths shall be minimized
 - (2) Direct (approximately 90 degree) crossing angles shall be employed
 - (3) Construction shall be capable of surviving 100-yr floods
 - (4) Free-span bridging techniques shall be employed to prevent blockage or constriction of natural drainageways
 - (5) Banks shall be properly stabilized

Sec. 74-x7. Buffer Management and Maintenance.

- (a) Buffer zones shall be managed to enhance and maximize the unique value of riparian resources. Management shall be the responsibility of the owner of the conservation rights on the property. The owner of such rights shall inspect the buffer zones periodically for evidence of sediment deposition, erosion, or concentrated flow channels and corrective actions shall be taken by the owner to ensure the integrity and functions of the buffer.
- (b) Ownership of buffer zones may be transferred to the City or to a nonprofit organization in fee or through a conservation easement. All such transactions shall be recorded with the City of Atlanta.

Exhibit A

(c) Upon the subdivision of property, all buffer zones shall be maintained through a declaration of protective covenant, which is required to be submitted for approval to the City of Atlanta. The covenant shall be recorded in the land records and shall run with the land and continue in perpetuity.

(d) An offer of dedication of buffer zone areas to the City of Atlanta shall not be interpreted to mean that this automatically conveys to the general public the right of access to these areas and the City is not bound to accept such dedication or donation.

(e) Permanent signage shall be placed at the boundary of all undisturbed natural vegetative buffer zones and maintained which says "City of Atlanta Stream Buffer, to be maintained in undisturbed natural state"

Sec. 74-x8. Variances.

(a) General. The Commissioner of the DPW or designee shall have the power to hear, grant or deny variances when, due to special conditions, a literal enforcement of this article in a particular case will result in the conditions listed in Sec. 74-x8. (c) (1), and provided that the spirit of the article shall be upheld, that the public health, safety and welfare shall be secured, and that substantial justice shall be done.

(b) Procedures for variance. The applicant shall submit a written request for a variance to the Commissioner of the DPW. The application shall include specific reasons justifying the variance and any other information required by the Commissioner necessary to evaluate the proposed variance request. The Commissioner may require an alternatives analysis that clearly demonstrates that no other feasible alternatives exist and that minimal impact will occur as a result of the project or development. No application for variance shall be accepted except from the owner or designated agent of the property involved. The Commissioner's decision shall be in writing and shall state the basis for the decision.

(c) Conditions for granting a variance.

(1) The Commissioner may only grant a variance upon making all of the following findings:

- a) the requirements of this article represent an extreme hardship for the landowner such that little or no reasonable economic use of the existing parcel is available without reducing the width of the required buffer zones or it is not possible to construct a single family dwelling on an existing lot without encroaching upon the buffer zones.
- b) the request, while not strictly meeting the requirements of this article, will be at least as protective of water quality, as defined by the federal Clean Water Act and will be at least as protective of natural resources and the

Exhibit A

environment with regard to the factors listed in Sec. 74-x1 (a) – (t) as would a plan which met the strict application of said requirements and such request would not otherwise compromise the health, safety, and welfare of the public

- c) The request does not go beyond the minimum variance necessary to afford reasonable economic use of the existing parcel or the construction of a single family house of average size for the immediate geographic area of the subject existing parcel
- d) The request does not constitute a grant of special privileges inconsistent with the limitations upon other properties which are similarly situated.
- e) The request would not reduce the buffer to a width less than the minimum standards established by state or federal law.

(2) The Commissioner may impose such conditions relating to the variance application as deemed necessary in the particular case to protect water quality, as defined by the federal Clean Water Act, to protect natural resources and the environment with regard to the factors listed in Sec. 74-x1 (a) – (t), and to otherwise protect the health, safety, and welfare of the public. Conditions may include but are not limited to those listed under Sec. 74-x8 (d).

(3) When granted, a variance, together with any conditions or safeguards attached, shall apply to the land or use for which it was issued, and not to a particular person.

(d) Mitigation. Mitigation measures are not necessarily limited to required buffer areas or to subject parcels. Mitigation measures may include but are not limited to the following:

- (1) Best management practices
- (2) Buffer or streambank restoration
- (3) Soil stabilization and/or revegetation
- (4) Non-disturbance of areas with slopes greater than 25%
- (5) Restrictions on cut and fill activities
- (6) Elevated construction techniques utilizing piers, boardwalks, or similar
- (7) Maintenance of vegetative cover before, during, and after construction
- (8) Reduction of run-off over pre-construction levels
- (9) Reduction or relocation of existing impervious surface
- (10) Performance bonding
- (11) Water quality monitoring
- (12) Modifications to site design

(e) Variance Options. Three variance options are provide below which may be granted administratively by the Commissioner of the DPW under the provisions of this article. In considering requests for variances, preference will be given to density transfer and buffer averaging, before buffer area reduction is considered. The Commissioner of the DPW shall not consider buffer area reduction until it has been found that reasonable economic use of the existing parcel or the construction of an average sized single family residence is not possible through the provisions of density transfer and buffer averaging.

Exhibit A

(1) **Density transfer.** The Commissioner may offer credit for additional density elsewhere on the site in compensation for the loss of developable land due to the requirements of this article. This compensation may increase the total number of dwelling units on the site up to the amount permitted under the base zoning. Building height may also be increased for non-residential uses. If a variance utilizing density transfer is granted, buffer zones must be placed under a conservation easement to be held in perpetuity for the purposes expressed in Sec. 74-x1 of this article or dedicated or donated to the City or a nonprofit for such purpose. The donation (or dedication) of land for stream buffers may be compensated for by allocating the density of the donated (or dedicated) land to the owner's remaining property, if so requested by the property owner. Applicants may petition the City to accept the donation or dedication of additional property above and beyond that included in the required buffer zone areas. The City is not bound by this article to accept any donation or dedication.

(2) **Buffer Averaging.** The Commissioner may grant a variance utilizing buffer averaging whereby buffer width is reduced over a portion of a property in exchange for an increase in buffer width elsewhere on the same property such that the average buffer width meets the requirements of this article. Buffer zone widths shall be reduced by the minimum amount possible, and never to less than the following:

- a) For perennial streams, 50-foot undisturbed natural vegetative zone (with the requirement for expansion depending on the presence of jurisdictional wetlands) and a 10-foot (or edge of floodplain plus 15 feet, whichever is greater) no impervious surface zone.
- b) For intermittent streams, 25-foot undisturbed natural vegetative zone (with the requirement for expansion depending on the presence of jurisdictional wetlands) and a 10-foot (or edge of floodplain plus 15 feet, which ever is greater) no impervious surface zone.

(3) **Buffer Zone Area Reduction.** The Commissioner may grant a variance utilizing buffer zone area reduction which is a reduction in the width of required buffer zones that is not balanced by a corresponding increase in buffer width elsewhere on the same property, or else a reduction in buffer zone width to less than the minimums specified in Sec. 74-x8 (e) (2) and 74-x3 (c). If such variance is granted, the applicant shall be required to pay into the Watershed Mitigation Fund as outlined in Sec. 74-x13 and 74-x14 an amount for both the displaced buffer areas that cannot be compensated on site and for any lost buffer area below the minimums specified in Sec. 74-x8 (e) (2) and 74-x3 (c). Under no circumstance, except as provided in Sec. 74-x8 (f) may the Commissioner grant variances that would reduce the undisturbed natural vegetative buffer required for jurisdictional wetlands, perennial streams, intermittent streams, ephemeral streams, or other waters of the state to less than 25-feet.

(f) **Relationship to OCGA 12-2-8.** The Commissioner shall have no power to consider or grant variances which are the responsibility of the Director of the EPD

Exhibit A

pursuant to OCGA 12-2-8. In the event that an applicant is also applying to the Director of the EPD for a variance under OCGA 12-2-8, the Commissioner shall not act on any related variance requests until the Director of the EPD has acted upon variance requests pending under OCGA 12-2-8. If the Director of the EPD acts favorably upon a variance request under OCGA 12-2-8, the Commissioner may grant a variance under the provisions of this article that would be no more lenient than the variance granted by the Director of the EPD by following the procedures outlined in this section 74-x8 and subject to all conditions outlined therein. However, receiving a variance from the Director of the EPD does not obligate the Commissioner to grant a similar variance if such variance does not meet the intent of this article and if the variance request including mitigation would not be as protective of all of the public benefits outline in Sec 74-x1 (a) – (t) as if the variance were not granted.

Sec. 74-x9. Nonconformities.

Existing uses including impervious surfaces and structures shall be exempt unless the existing use, impervious surface, or structure is expanded to occupy greater land area; the existing use, impervious surface, or structure is moved in whole or in part to any other portion of the property; the existing use ceases for a period of more than one year; or in the event that more than 60% of replacement cost is destroyed. Any replacement or reconstruction activity shall occur in the original footprint or shall require compliance with the provisions of this article. Normal repairs, restoration, and renovation may be performed upon nonconforming impervious surfaces and structures.

Sec. 74-x10. Enforcement Procedures.

- (a) The Commissioner of the DPW is authorized and empowered to enforce the requirements of this article in accordance with the procedures of this section.
- (b) Any violations of the provisions of this article involving land disturbing activities shall be remedied under the provisions of Article II of Chapter 74.
- (c) Any violations of the provisions of this Article involving vegetation shall be remedied under the provisions of Chapter 158, Vegetation. Any proceeds contributed to the Tree Trust Fund that are derived from displacement of trees from a naturally vegetated undisturbed buffer area, shall be required to be expended in the major watershed in which they are collected.
- (d) If, upon inspection or investigation, the Commissioner or his/her designee is of the opinion that any person has violated any provision of this article not involving land disturbing activities or vegetation or that any person has significantly compromised the integrity of required buffer areas without appropriate permissions, he/she shall with reasonable promptness issue a correction notice to the person. Each such notice shall be in writing and shall describe the nature of the violation, including a reference to the provision within this article which has been violated. In addition, the notice shall set a reasonable time for the abatement and correction of the violation.
- (e) If it is determined that the violation or violations continue after the time fixed for abatement and correction has expired, the Commissioner shall issue a citation by certified mail to the person who is in violation. Each such notice shall be in writing and shall describe the nature of the violation, including a

Exhibit A

reference to the provision within this article which has been violated, and what penalty, if any, is proposed to be assessed. The person charged has thirty (30) days within which to contest the citation or proposed assessment of penalty and to file a request for a hearing with the Commissioner or his designee. At the conclusion of this hearing, the Commissioner or his designee will issue a final order, subject to appeal to the appropriate authority. If, within thirty (30) days from the receipt of the citation issued by the Commissioner, the person fails to contest the citation or proposed assessment of penalty, the citation or proposed assessment of penalty shall be deemed the final order of the Commissioner.

- (f) Any person who violates any provision of this article may be liable for any cost or expenses incurred as a result thereof by the agency.
- (g) Penalties which may be assessed for those deemed to be in violation of this article in addition to and separate from those described under Article II of Chapter 74, and under Chapter 158, may include:

- (1) A civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation with each day's continuance considered a separate violation.

- (2) A criminal penalty in the form of a fine of not more than one thousand dollars (\$1,000.00) for each violation or imprisonment for not more than ninety (90) days, or both. Every day that such violations shall continue will be considered a separate offense.

- (h) In addition to any other sanctions listed in this article, a person who fails to comply with the provisions of this article shall be liable to the agency in a civil action for damages in an amount equal to twice the cost of restoring the required buffer areas. Damages that are recovered in accordance with this action shall be deposited into the Watershed Mitigation Fund and shall be distributed in the major watershed in which they were collected. In addition, if the required buffer area has been significantly compromised without appropriate permissions, and it is deemed that despite restorative efforts the integrity of the buffer shall remain compromised in regard to any of the purposes listed in sec. 74-x1 (a) – (t) for a period of time greater than one year, the City may assess the owner the value of the area of compromised buffer under the provisions of Sec. 74-x13 of this Article which shall be added to the Watershed Mitigation Fund.

- (i) If the person fails to take corrective action in the time period specified in the notice, the City may take such remedial action as is necessary to restore the buffer zone areas or stabilize the streambank. Such remedial action may include entry upon the property on which a violation exists, correction of the violation, and the placement of a lien upon the property to secure payment and reimbursement of any and all expenses incurred by the City in correcting the violation.

Sec. 74-x11. Appeal of an administrative decision.

- (a) After having complied with the application requirements of the Commissioner, should the owner of record of a existing parcel dispute a decision of the Commissioner, the owner of record may appeal to the City Council by filing a

Exhibit A

notice of appeal with the Commissioner within 30 days of the administrative decision.

- (b) The notice of appeal filed under this section shall address the reasons why the owner's request, if granted, would not impair the quality, vitality or stability of the protection area in regard to all of the public benefits listed in section 74-x1 (a) – (t), and would not destroy more than a minimum amount of the vegetation within the protection area, and must show that if the decision of the Commissioner were upheld, more destruction of the riparian cover within the protection area would result.
- (c) The Commissioner shall review the notice of appeal filed under this section and transmit to the City Council a written report of his findings and recommendations, which shall become a part of the official record.
- (d) The City Council, having received the report of the Commissioner, making it a part of the official record, and having considered the written and oral statements of the owner and any other evidence, is authorized to and shall hear and decide appeals where it is alleged there is any error in any order, requirement, decision or determination made by the Commissioner in the administration or enforcement of this article. The decision of the City Council shall not result in a violation or circumvention of any applicable condition of zoning, provision of the zoning code, subdivision regulations, or any other regulation, state or federal law other than exceptions explicitly permitted under this article.
- (e) A written copy of the findings and decision of the City Council on an appeal under this section shall be transmitted to the applicant and to the Commissioner.
- (f) An owner aggrieved by a decision of the City Council under this section shall have the right to appeal to the superior court of the county by writ of certiorari.

Sec. 74-x12. Conservation Easements, Property Dedications and Donations.

The mayor is hereby authorized to accept conservation easements created pursuant to the Georgia Uniform Conservation Easement Act, OCGA 44-10-1 et seq., as amended from time to time, or any successor provision of law, the purpose of which easements comply to the purposes of this article as stated in Sec 74-x1. Such easements shall be in perpetuity and may contain such other terms and provisions as the mayor shall deem appropriate. The mayor is also hereby authorized to accept donations or dedications of land for the protection of riparian buffer areas and fulfilling the purposes listed in sec 74-x1 (a) – (t). The donation (or dedication) of land for stream buffers may be compensated for by allocating the density of the donated (or dedicated) land to the owner's remaining property, if so requested by the property owner. Applicants may petition the City to accept the donation or dedication of additional property above and beyond that included in the required buffer zone areas. The City is not bound by this article to accept any donation or dedication of property in fee or as easements.

Sec. 74-x13. Calculation of value of buffer areas.

Penalties or mitigation fees assessed under this article which are based upon compensation for buffer areas shall be calculated by multiplying the land area to be compensated for by the value per acre of a typical comparable undisturbed natural vegetative buffer area in the same major watershed. Such value shall be derived every

Exhibit A

two years by the Bureau of Purchasing based upon comparative appraisals of comparable buffer areas in the major watersheds. The assessment of value for any required no impervious surface zone shall also be calculated by multiplying the area to be compensated by the value per acre of a typical undisturbed natural vegetative buffer area in the same major watershed

Sec. 74-x14. Watershed mitigation fund.

- (a) The City shall establish a watershed mitigation fund for the purposes described in this article. The fund shall derive and administer its proceeds independent of the city budget.
- (b) Funds shall be expended in the major watershed in which they are collected for the purposes of this article listed under Sec 74-x1 (a) – (t) including monitoring, restoration, inspection, purchase or any other activity deemed to improve water quality in the watershed.
- (c) Funds shall be expended upon the recommendation of the mayor and approval by City Council for projects and activities which clearly meet the purposes described herein. Such purposes must be defined in the authorizing legislation to expend funds from the account.

Sec. 74-x15. Subdivision of land.

No new lot or parcel may be created which would require a variance to this article in order to fulfill the intended use, unless the new lot or parcel is the subject of an application filed and completed, with all necessary supporting documentation according to City Code, prior to May 25, 2001.

Sec. 74-x16. Conflict With Other Regulations.

In the event of a conflict between or among any provisions of this article, or any other laws, regulations, and policies, the requirement that is most restrictive and protective of water quality shall apply.

Sec. 74-x17. Relationship to Metropolitan River Protection Act.

The requirements of this article shall not preclude any requirements of the Metropolitan River Protection Act for activities within the 2000-foot Chattahoochee River Corridor. Further, the requirements of this article fulfill the requirements of the Metropolitan River Protection Act, OCGA 12-5-453, which mandate that local jurisdictions adopt ordinances or regulations governing use of all land which is in the drainage basin of any tributary flowing into the Chattahoochee River Corridor which at a minimum, include buffer areas of adequate width as determined by local governing authorities along all flowing streams in the drainage basin of any tributary, in which areas there will be no land-disturbing activity.

Sec. 74-x18. Effective Date.

This article shall become effective upon its adoption and upon adoption all properties in the City of Atlanta shall be brought into compliance with this article. Applications for permits or the subdivision of land filed between May 25, 2001 and the effective date of

Exhibit A

this article, may, at the request of the applicant, proceed through the permitting process under the provisions of this article.

Sec. 74-x19. Severability.

Should any section, subsection, clause, or provision of this Article be declared to be invalid, such decision shall not effect the validity of this Article in whole or any part thereof other than the part so declared to be invalid.

**A SUBSTITUTE ORDINANCE BY
CITY UTILITIES COMMITTEE**

1452
Coca Cola
Streets

AN ORDINANCE TO AMEND ORDINANCE NOS. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 AND 99-O-0029 AND TO AUTHORIZE THE MAYOR TO ACCEPT 22,025 SQUARE FEET OF LAND IN EXCHANGE FOR THE CITY'S ABANDONMENT OF A PORTION OF MCAFEE ST., N.W., SIMPSON ST., N.W., VENABLE ST., N.W., HULL ST., N.W. AND FOWLER ST., N.W., OWNED BY AND LOCATED IN THE CITY OF ATLANTA, GEORGIA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City"), by prior Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029, authorized the abandonment of a portion of McAfee St., N.W., Simpson St., N.W., Venable St., N.W., Hull St., N.W. and Fowler St., N.W. (collectively, the "Abandoned Property") owned by and located in the City and described more particularly in those Ordinances, in exchange for the abandonment petitioner's payment to the City of the fee simple fair market appraised value of the Abandoned Property; and

WHEREAS, at present, the Coca Cola Company and the Atlantic Financial Group are the owners of the property abutting the Abandoned Property; and

WHEREAS, the City plans to widen Alexander Street in a manner currently proposed by the City's consultant, as more particularly described on Exhibit 1 attached, and desires to acquire from the Atlantic Financial Group approximately 22,025 square feet of land (the "Coca Cola/Atlantic Property"), plus or minus such land as to be finally determined by the City upon the completion right-of-way documents for the Alexander Street widening project, from parcels currently owned by the Atlantic Financial Group (referenced on Exhibit 1 as Tax Identification Nos. 14-79-9-44, 14-79-10-128, 14-79-10-130, 14-79-10-134, 14-79-70-109, 14-79-70-119, 14-79-10-76, 14-79-10-77, 14-79-10-78 and 14-79-10-115); and

WHEREAS, the Alexander Street widening project is presently in the design phase; accordingly, the actual size of the Coca Cola/Atlantic Property to be exchanged for the Abandoned Property cannot be finally determined by the City until its completion of certain right-of-way documents, including survey plats and legal descriptions; and

WHEREAS, nevertheless, the Coca Cola Company and the Atlantic Financial Group have proposed to the City to exchange the to be determined Coca Cola/Atlantic Property for the Abandoned Property, in lieu of paying cash for the Abandoned Property in the amount equivalent to the appraised fair market fee simple value of the Abandoned Property; and

WHEREAS, the City has reviewed information concerning the tracts from which the Coca Cola/Atlantic Property will be conveyed and determined that it is desirable and in its best interests to exchange the Abandoned Property for the Coca Cola/Atlantic Property, in lieu of a cash payment; and

E-2

WHEREAS, the City anticipates reviewing additional information concerning the Coca Cola/Atlantic Property once its desired tract size is determined and prior to its conveyance to the City by the Coca Cola Company and the Atlantic Financial Group; and

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1.

That, pursuant to Section 2-1578 (d) of the Code of Ordinances, the following negotiated transaction between the City and the Coca Cola Company and the Atlantic Financial Group concerning the Abandoned Property is approved:

- 1) The City will execute and deliver to the Coca Cola Company and the Atlantic Financial Group a Quitclaim Deed conveying the City's interest in the Abandoned Property to them. The City's Quitclaim Deed will contain a provision in which the Coca Cola Company and the Atlantic Financial Group agree that, upon the City's determination of the desired size of the Coca Cola/Atlantic Property, the Coca Cola Company and the Atlantic Financial Group will convey the desired Coca Cola/Atlantic Property to the City by Quitclaim Deed. The City's Quitclaim Deed will be executed by the Coca Cola Company and the Atlantic Financial Group and will be conditioned upon the future conveyance of the Coca Cola/Atlantic Property to the City; and
- 2) In exchange and as consideration for the City's delivery of the Quitclaim Deed to them, the Coca Cola Company and the Atlantic Financial Group, at the time the actual size of the Coca Cola/Atlantic Property is determined by the City, will execute and deliver to the City a Quitclaim Deed conveying their interests in the Coca Cola/Atlantic Property to the City; and
- 3) This contemplated exchange of property is in lieu of the payment in cash to the City by the Coca Cola Company and the Atlantic Financial Group of the fee simple fair market appraised value of the Abandoned Property.

Section 2.

That the Mayor is authorized to execute and deliver a Quitclaim Deed to the Coca Cola Company and the Atlantic Financial Group conveying the Abandoned Property to them in exchange, at the time the actual size of the Coca Cola/Atlantic Property is determined by the City, for the future delivery of a Quitclaim Deed from the Coca Cola Company and the Atlantic Financial Group conveying to the City the Coca Cola/Atlantic Property, in a tract size to be approved by the City and appropriate for the Alexander Street widening project, upon

completion and receipt of certain right-of-way documents, including a survey plat and legal description and appraisal of the Coca Cola/Atlantic Property.

Section 3. That the City Attorney is directed to prepare a Quitclaim Deed for execution by the Mayor, containing terms and conditions appropriate and/or legally required for this transaction, to be approved by the City Attorney as to form.

Section 4. That the Quitclaim Deed will not become binding upon the City and the City will incur no liability under it until the Coca Cola Company and the Atlantic Financial Group has duly executed it and delivered it to the Mayor, the Mayor has executed it, it has been attested to by the Municipal Clerk and delivered to the Coca Cola Company.

Section 5. That any provisions contained in the City's Code of Ordinances, presently in force and effect, are waived to the extent of any conflict with this Ordinance, and further provided that, except as amended by this Ordinance, the remainder of Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 continue in full force and effect.

EXHIBIT 1

**CORRIDOR STUDY PROPOSAL
PROJECT 43917-001-5151**

AUGUST 2000

**JOHN C. LAVELLE
Phone: 404-315-1512
Fax: 404-315-9890**

JOHN C. LAVELLE
SMITH REAL ESTATE SERVICES
2695 BUFORD HIGHWAY
SUITE 100
404-315-1512

August 8, 2000

Timothy Preece
Dames & Moore
235 Peachtree Street, NE
Suite 2000
Atlanta, Georgia 30303-1405

Re: Corridor Study Proposal
Project 43917-001-5151

Dear Mr. Preece:

As you requested, I have inspected the referenced project corridor and analyzed the economics of the area for the purpose of estimating the right-of-way costs that would be associated with the conceptual development of the Simpson Street/Jones Avenue/Alexander Street Corridor. In addition, I have provided an estimate of the administrative costs that would be associated with the acquisition of the proposed right of way. The effective date of this analysis is August 4, 2000, the most recent date of inspection.

My estimates are based on plans that you provided, dated June 20, 2000. Although the indicated scale of the plans is 1" = 40', the correct scale is 1' = 50'. As you know, no tabulations of the right of way required from each parcel were provided; nor was the right of way marked in the field. Therefore, my estimates of the areas to be acquired, as well as the impact on each parcel resulting from any acquisition, are based on the plans provided and field inspections.

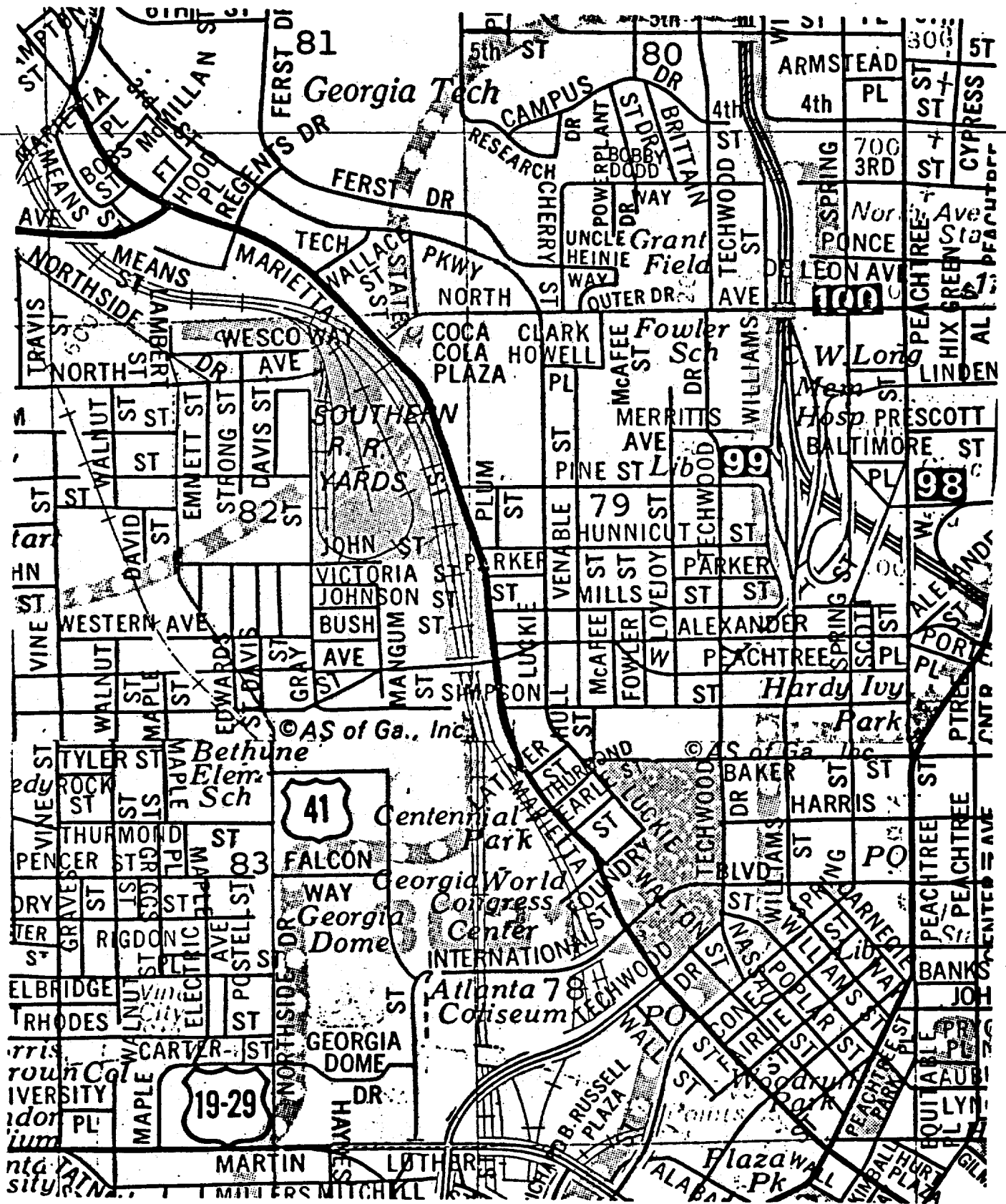
Thank you for this opportunity to serve you in this matter. Should you have any questions or requests for additional documentation, please do not hesitate to contact me.

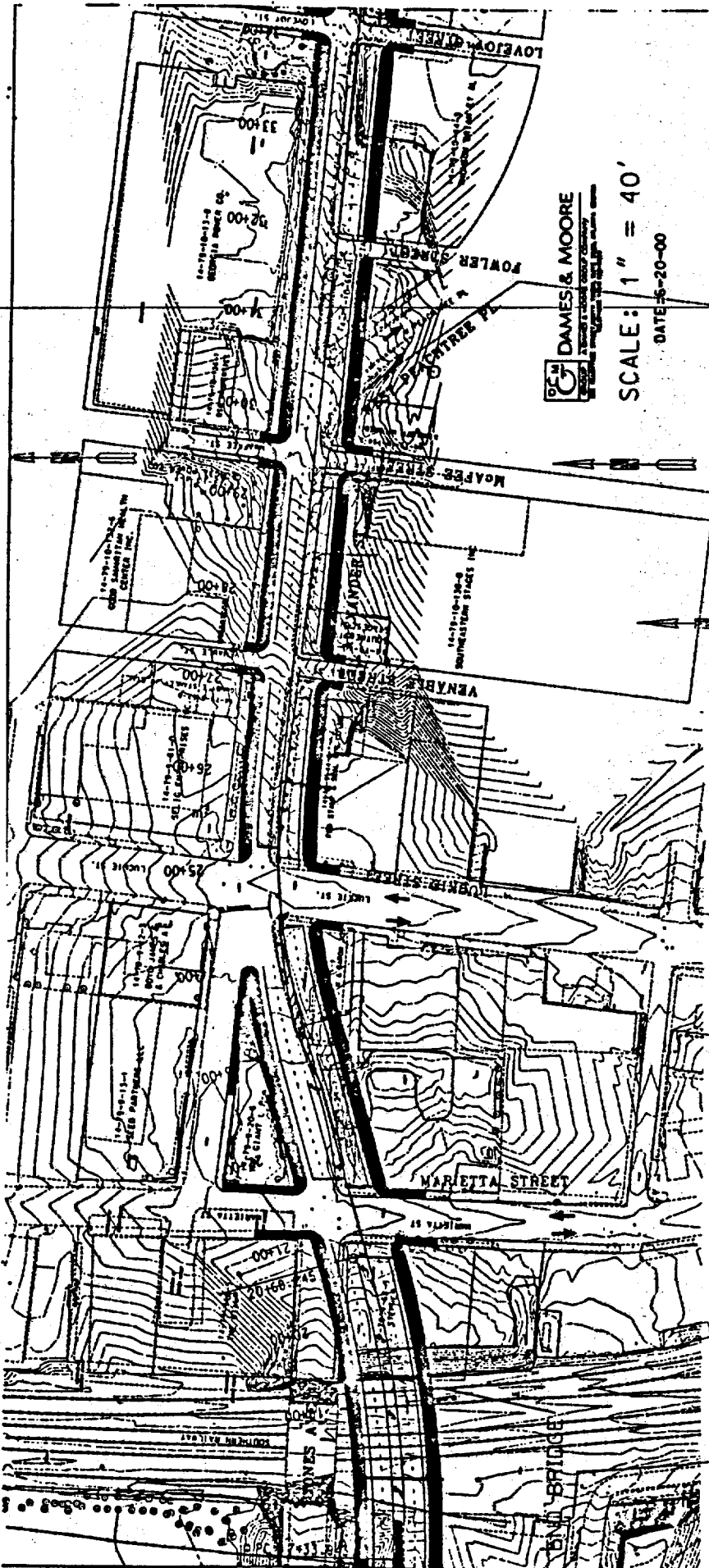
Respectfully,



John C. Lavelle
Program Manager

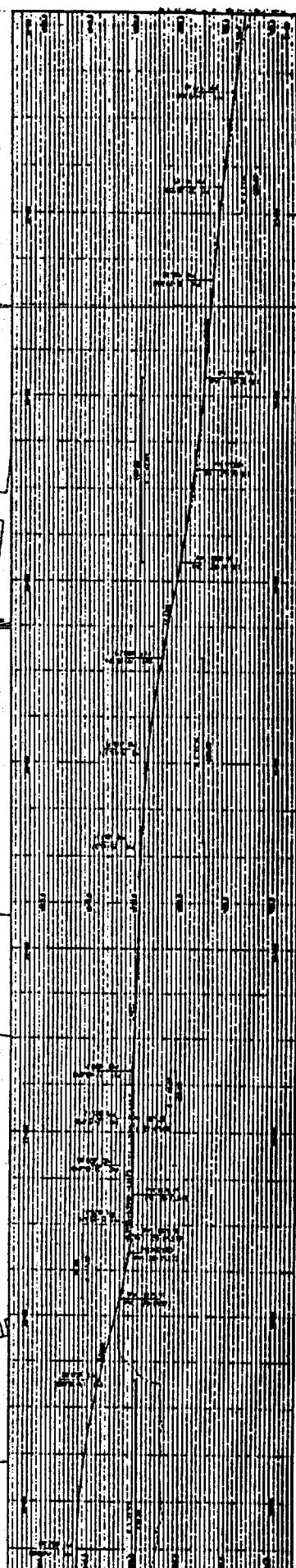
NEIGHBORHOOD MAP

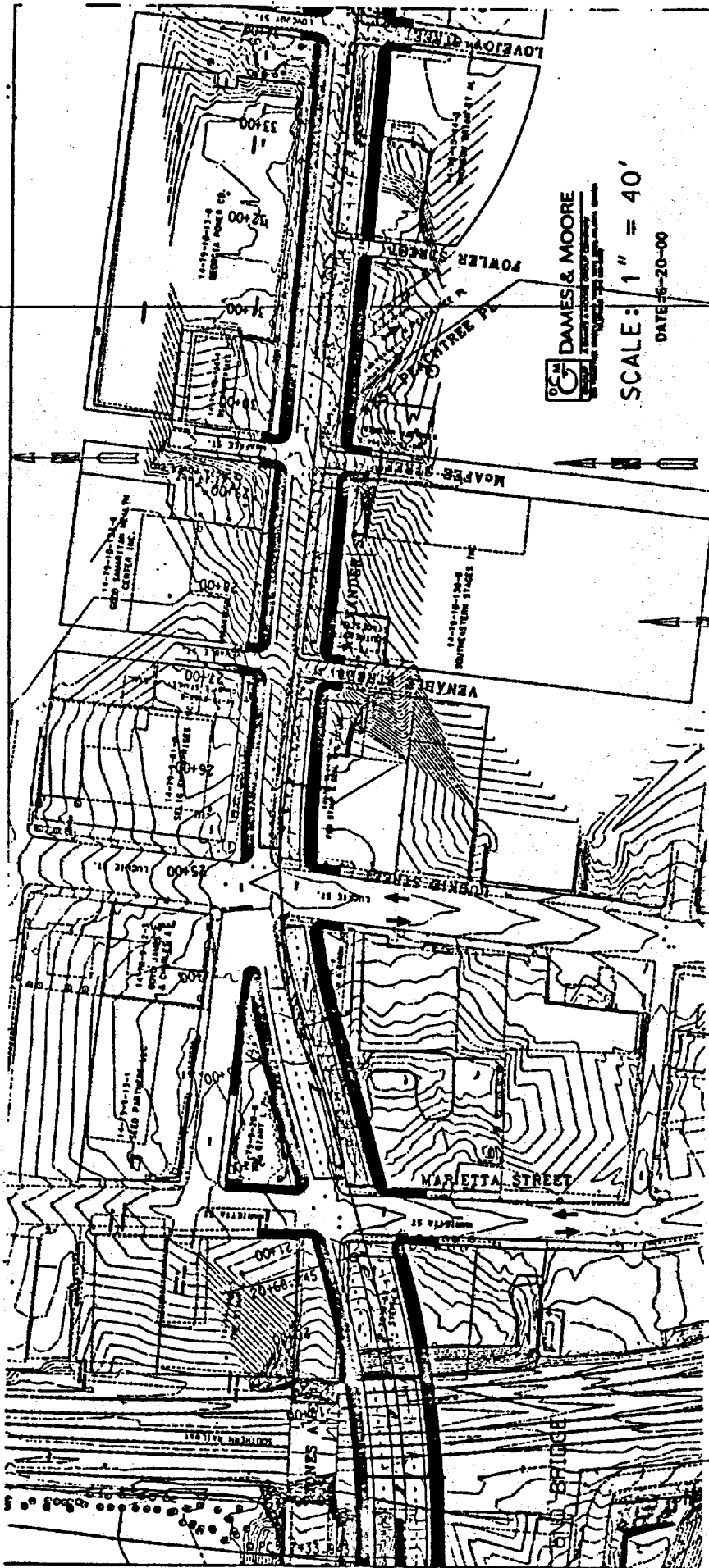




DCM DAMES & MOORE
REGISTERED PROFESSIONAL ENGINEERS
CIVIL ENGINEERS
1001 P STREET, N.W.
WASHINGTON, D.C. 20004

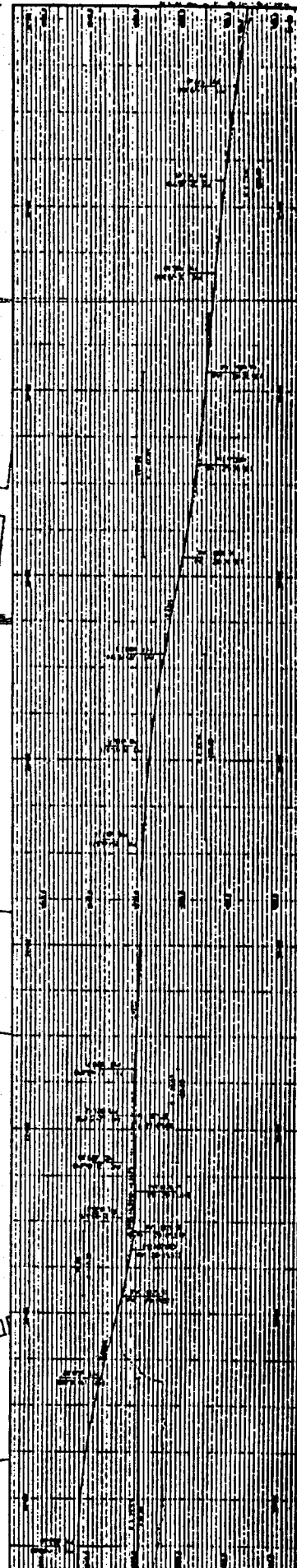
SCALE: 1" = 40'
DATE: 6-20-00

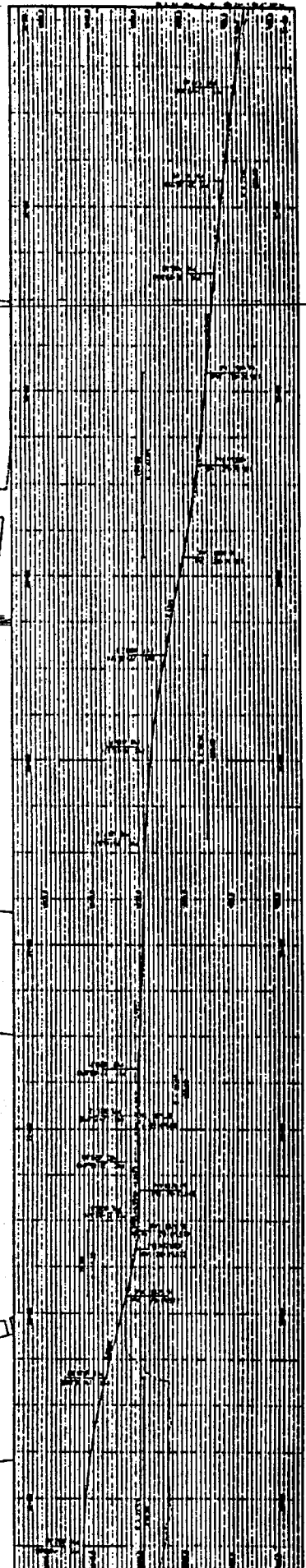
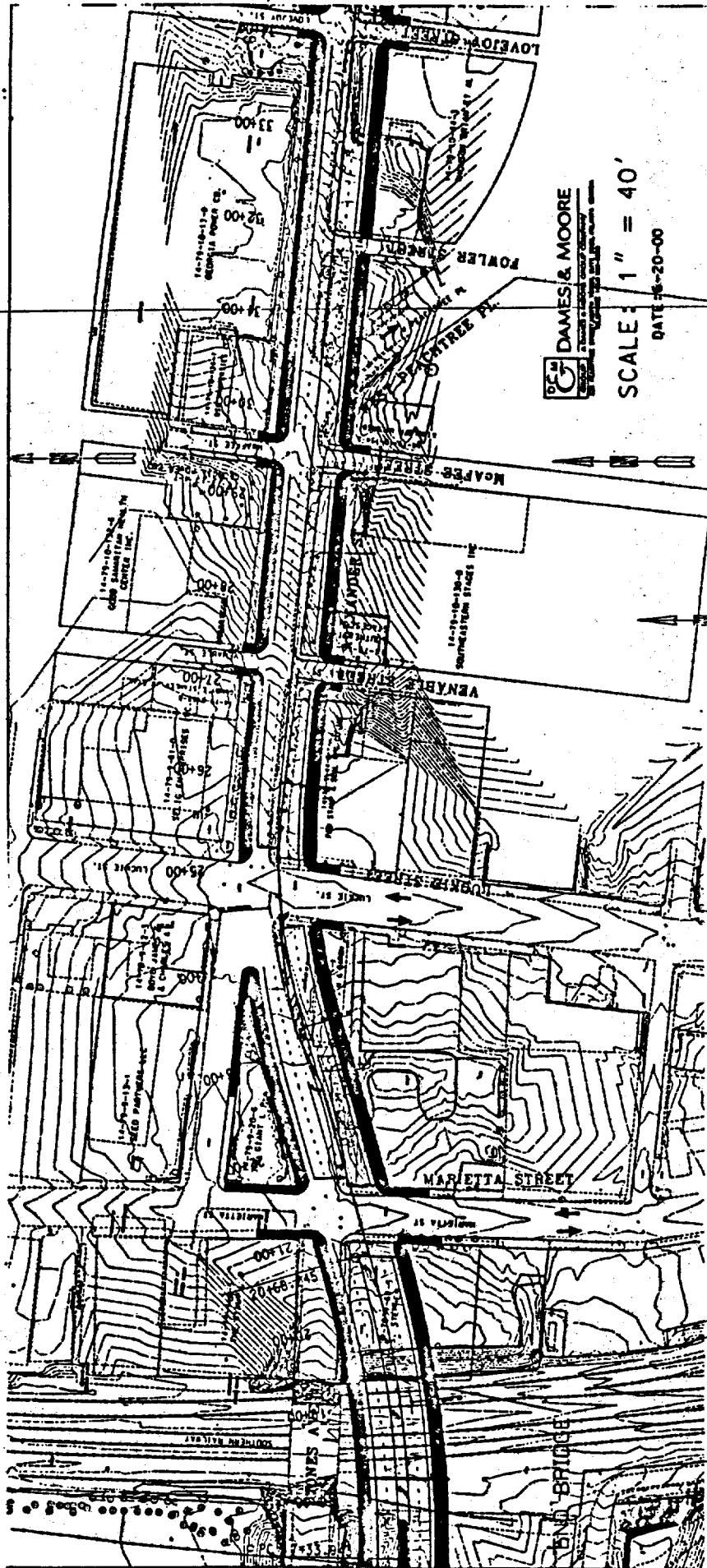




DAMES & MOORE
INCORPORATED
1000 MARKET STREET
SAN FRANCISCO, CALIF. 94102

SCALE: 1" = 40'
DATE: 6-20-00





AREA OVERVIEW

The subject neighborhood is generally bound on the north by the Georgia Tech campus and the Coca Cola Plaza; on the south by Martin Luther King, Jr. Drive; on the east by W. Peachtree Street and the North Expressway (I 75/85); and on the west by Northside Drive. One of the significant land uses within the neighborhood is the CSX Railroad yards, over which this corridor will provide a new Railroad bridge (the Bridge) just west of its intersection with Marietta Street.

West of the Bridge land use appears to be dominated by the GWCC expansion. Currently, much of the land directly within the right-of-way corridor in this area is vacant. East of the Bridge agents for the Coca Cola Company and others have been acquiring various tracts of land, which are now or are soon to be vacant and awaiting development. Improved properties support secondary or tertiary commercial uses, along with social service uses and a Georgia Power substation. The overall impression is of an area in transition.

THE CORRIDOR

After a desk review of the plans, I made a field review of the subject corridor and the surrounding neighborhood. The subject project will create a right-of-way corridor having a width from approximately 85 feet to 95 feet, extending on the west from the intersection of Simpson Street with Davis Street at Northside Drive to the intersection of Alexander and West Peachtree Streets on the east. This generally West/East corridor would connect Northside Drive to West Peachtree Street via Simpson Street, Jones Avenue and Alexander Street, a linear distance of just under one mile.

There are only four properties west of the Bridge directly impacted by the corridor project; while east of the Bridge there are 18 such properties. The corridor will have a minimal impact on improved sites, affecting generally vacant properties.

APPROACH TO VALUE

An analysis of the land sales west of the Bridge show an impact on value influenced by the GWCC expansion. Land values have generally increased to about \$10.00 per square foot in the immediate vicinity of the project. Sales activity, however, does not approach the level evidenced by the market east of the Bridge. A number of the properties there have been acquired in recent years. The unit prices paid by the representatives of the Coca Cola Company and others have ranged from \$30.00 to over \$60.00 per square foot. For purposes of this analysis, I have settled on a value of \$50.00 per square foot for the land east of the Bridge and \$10.00 west of the Bridge.

The affected site improvements were generally minimal, with the exception of signs on one site (14-79-9-24) and playground equipment and landscaping on another (14-79-10-85, 88, 131).

Consequential economic damages (those beyond the value of the part taken) were judged to exist on several parcels. The reasons varied from loss of parking to proximity of the new road, to grade changes from the new road. However, an estimation of the level of consequential damages is not possible without more specific design details and appraisals of the affected parcels. Such analyses were beyond the scope of this assignment. As a result, the final cost estimate should be viewed as a realistic minimum value.

PRESENTATION

The breakdown that follows is somewhat arbitrary in that it divides the impacted parcels along the North/South axis of the proposed corridor. The parcels are presented as they are encountered proceeding from west to east. Each property is presented as it would likely be appraised; therefore, a single property might consist of one or several tax parcels. Each property's address and ownership is as shown on Fulton County records as of January 1, 2000.

It should be noted that I made an assumption of no right-of-way costs with respect to two properties: the Southern Railway site (14-82-7-87) and the rights over the Georgia Department of Transportation (GDOT) property (14-79-12-1). Typically, when a bridge is improved and raised over an existing Railroad, the Railroad donates the property rights needed to improve the structure. Similarly, GDOT will generally donate the air rights needed to improve an existing bridge over its property.

NORTH SIDE

TAX ID	ADDRESS	OWNER(S)	AREA (SF)	AMOUNT \$	SITE IMPS. \$	DAMAGES (Y/N)	TOTAL \$
14-82-9-75,73	465 Simpson 340 Gray	Charles E. Ozburn	2,950	29,500	NA	Y	29,500
14-82-7-106	337 Gray	State of Georgia	5,125	51,250	NA	Y	51,250
14-79-10-138	165 Alexander	Atlanta Union Mission	150	7,500	2,000	N	9,500
14-79-10-30	376 Techwood	Jun In Suk	400	20,000	2,000	N	22,000
14-79-11-44, 45	377 Techwood Alexander	Georgia Tech Foundation Real Estate	350	17,500	2,000	N	19,500
14-79-11-18	Alexander	Georgia Department of Transportation	NA	NA	NA	NA	NA
Subtotals			8,975	125,750	6,000		131,750

SOUTH SIDE

TAX ID	ADDRESS	OWNER(S)	AREA (SF)	AMOUNT \$	SITE IMPS. \$	DAMAGES (Y/N)	TOTAL \$
14-82-7-86, 107, 108	354 Jones, Simpson, 362 Jones Simpson	Abrams Fixture Corp.	64,250 (1)	642,500	NA	Y	642,500
14-82-7-87		Southern Railway	NA	NA	NA	NA	NA
14-79-9-24	394-412 Marietta	Stephen S. Selig III, et al	9,950	497,500	25,000	N	522,500
14-79-9-29, 43	Marietta	Stephen S. Selig III, et al	5,250	262,500	NA	N	262,500
14-79-9-66	362 Luckie	Morris N. Habif, et al	10,125 (2)	506,250	NA	N	506,250
14-79-9-44	355 Luckie	Atlantic Financial Group, Ltd	6,300	315,000	NA	N	315,000
14-79-10-128, 130	Alexander, 226 Alexander	Southeastern Stages, Inc.	5,375	268,750	NA	Y	268,750
14-79-10-134	McAfee	Atlantic Financial Group, Ltd	625	31,250	NA	N	31,250

14-79-70-109, 119	200 Alexander Alexander	Atlantic Financial Group, Ltd	3,000	150,000	NA	Y	150,000
14-79-10-76, 77, 78, 115	Alexander	Atlantic Financial Group, Ltd	6,725	336,250	NA	N	336,250
14-79-10-85, 88, 131	Alexander Techwood	The Sheltering Arms	8,900	445,000	20,000	N	465,000
14-79-12-1	Techwood	Georgia Department of Transportation	NA	NA	NA	N	NA
14-79-12-2	360 Williams	The Alexander Family, LP	700	35,000	NA	N	35,000
14-79-12-57, 58	Alexander Spring	Peachtree Portal, LP	4,000	200,000	NA	N	200,000
14-79-12-49	Spring	Peachtree Portal, LP	850	42,500	NA	N	42,500
14-79-12-47	356 W. Peachtree	TCW Land Fund I Holding Co.	250	12,500	NA	N	12,500
Subtotals			126,300	3,745,000	45,000		3,790,000

SUMMARIES

<u>SECTION</u>	<u>AREA (SF)</u>	<u>AMOUNT</u>	<u>SITE IMPS.</u>	<u>TOTAL</u>
North Side	8,975	\$125,750	\$6,000	\$131,750
South Side	<u>126,300</u>	<u>3,745,000</u>	<u>45,000</u>	<u>3,790,000</u>
TOTALS	135,275	\$3,870,750	\$51,000	\$3,921,750

For your additional consideration, the breakdown of these costs would be \$723,250 for property acquisition west of the Bridge and \$3,198,500 east of the Bridge.

RECONCILIATION

To the total estimated costs should be added a contingency allowance that would provide for negotiated settlements as well as increases due to condemnation decisions. Given the unit values and assumptions presented herein, I would suggest an allowance factor of 30 percent. Therefore:

Total R/W Costs	\$3,921,750
<u>Contingency</u>	<u>x 1.30</u>
Total Estimate	\$5,098,275
Final Estimate (Rounded)	\$5,100,000

ESTIMATED ADMINISTRATIVE COSTS

The range of administrative services includes title reports, appraisals, appraisal reviews, negotiations, real estate closings, and condemnation services. To the costs for these items must be added the administrative costs associated with managing the process, and consideration for overhead and profit. Typically, the costs associated with condemnation, including attorney's fees and expert witness testimony fees, are borne directly by the condemning authority. The right-of-way company's costs associated with condemnation would be covered under administrative costs. Based on the plan presented, I would estimate the costs to administer the project as follows:

Title Reports-	37 parcels @ \$150/parcel	\$5,550
Appraisals-	22 reports	38,000
Appraisal Reviews-	40% of appraisal costs	15,200
Negotiations-	22 acquisitions	19,500
Closings-	22 @ \$500/case	<u>11,000</u>
Subtotal		\$89,250
Administration, Overhead & Profit	75% of subtotal	<u>66,938</u>
Total		\$156,188
Rounded		\$156,000

**CONDITION FOR APPROVAL FORM
(TO ACCOMPANY LEGISLATION)**

COMMITTEE: CUC

DATE: 11/13/07

ORDINANCE # 1452 RESOLUTION # _____

REQUESTED BY: CUC

DIRECTED TO: Law Dept.

NATURE OF CONDITION FOR APPROVAL:

To Review & Opine on
the substitute

WHEN IS THIS INFORMATION DUE, AND TO WHOM?

ASAP

WILL THIS RESULT IN AN AMENDMENT TO THE LEGISLATION?

YES () NO ()

WILL THIS RESULT IN A SUBSTITUTE TO THE LEGISLATION?

YES () NO ()

HAS THIS INFORMATION BEEN RECEIVED? YES () NO ()

DATE OF RECEIPT: _____

17 2

**A SUBSTITUTE ORDINANCE
BY: CITY UTILITIES COMMITTEE**

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT 22,025 SQUARE FEET OF LAND, MORE OR LESS, AS MORE PARTICULARLY DESCRIBED BELOW, AS CONSIDERATION FOR THE ABANDONMENT OF A PORTION OF MCAFEE ST., NW, SIMPSON ST., NW, VENABLE ST., NW, HULL ST., NW, AND FOWLER ST., NW; TO AMEND ORDINANCES 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028, AND 99-O-0029 TO REFLECT THE FACT THAT THE STREETS ARE NOT BEING APPRAISED TO DETERMINE THEIR FAIR MARKET FEE SIMPLE LAND VALUE; TO AMEND ORDINANCES 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028, AND 99-O-0029 TO REFLECT THE FACT THAT THE COCA-COLA COMPANY AND THE ATLANTIC FINANCIAL GROUP ARE THE PROPERTY OWNERS ENTITLED TO REQUEST THE QUIT CLAIM DEED TO THE AFOREMENTIONED STREETS; AND FOR OTHER PURPOSES.

WHEREAS, Simpson Street, Venable Street, McAfee Street, Fowler Street and Hull Street are held by the City of Atlanta as easement streets, and not fee owned rights-of-way; and

WHEREAS, because the City never had fee simple title to the streets in question, its action in abandoning the use for public road purposes extinguished any easement rights that it had, and the underlying property reverts to the adjacent property owners; and

WHEREAS, The Atlantic Financial Group is now the abutting property owners to the above referenced streets; and

WHEREAS, The City of Atlanta is making provision for the widening of Alexander Street in a manner currently proposed by the City's consultant as shown on Exhibit "A" attached, thus requiring approximately 22,025 square feet of land from parcels currently owned by The Atlantic Financial Group (Referenced on Exhibit "A" as Tax Identification Numbers 14-79-9-44, 14-79-10-128, 14-79-10-130, 14-79-10-134, 14-79-70-109, 14-79-70-119, 14-79-10-76, 14-79-10-77, 14-79-10-78, and 14-79-10-115); and

WHEREAS, the City of Atlanta's consultant estimates that the cost to acquire the approximately 22,025 square feet of land currently owned by the Atlantic Financial Group is approximately \$1,101,250.00; and

WHEREAS, The Coca-Cola Company and the Atlantic Financial Group wish to compensate the City of Atlanta with the payment of 22,025 square feet of land, more or less, as described above, for any incidental interest which the City might possess in the abandoned streets.

BE IT HEREBY ORDAINED by the Council of the City of Atlanta as follows:

Section 1. That Section 5 of Ordinances 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 are hereby amended by replacing Section 5 of those ordinances with the following language: "That the City Utilities Committee accept and approve the payment of approximately 22,025 square feet of land, more or less, as more particularly referenced in Exhibit "A", from the Atlantic Financial Group for any and all interest that the City might have in the streets or portions thereof listed in the aforementioned ordinances".

Section 2. That the Mayor be and is hereby authorized to accept on behalf of the City approximately 22,025 square feet of land, more or less, as more particularly referenced in Exhibit "A", for any incidental interest the City may possess in the aforementioned abandoned streets and execute a quit claim deed as consideration for same.

Section 3. More specifically, that the Mayor be and is hereby authorized to execute Quitclaim Deeds conveying any interest the City may hold in the said streets to The Coca-Cola Company and the Atlantic Financial Group.

Section 4. That all ordinances and parts of ordinances in conflict herewith be and same are hereby repealed.

**CORRIDOR STUDY PROPOSAL
PROJECT 43917-001-5151**

AUGUST 2000

**JOHN C. LAVELLE
Phone: 404-315-1512
Fax: 404-315-9890**

JOHN C. LAVELLE
SMITH REAL ESTATE SERVICES
2695 BUFORD HIGHWAY
SUITE 100
404-315-1512

August 8, 2000

Timothy Preece
Dames & Moore
235 Peachtree Street, NE
Suite 2000
Atlanta, Georgia 30303-1405

Re: Corridor Study Proposal
Project 43917-001-5151

Dear Mr. Preece:

As you requested, I have inspected the referenced project corridor and analyzed the economics of the area for the purpose of estimating the right-of-way costs that would be associated with the conceptual development of the Simpson Street/Jones Avenue/Alexander Street Corridor. In addition, I have provided an estimate of the administrative costs that would be associated with the acquisition of the proposed right of way. The effective date of this analysis is August 4, 2000, the most recent date of inspection.

My estimates are based on plans that you provided, dated June 20, 2000. Although the indicated scale of the plans is 1" = 40', the correct scale is 1' = 50'. As you know, no tabulations of the right of way required from each parcel were provided; nor was the right of way marked in the field. Therefore, my estimates of the areas to be acquired, as well as the impact on each parcel resulting from any acquisition, are based on the plans provided and field inspections.

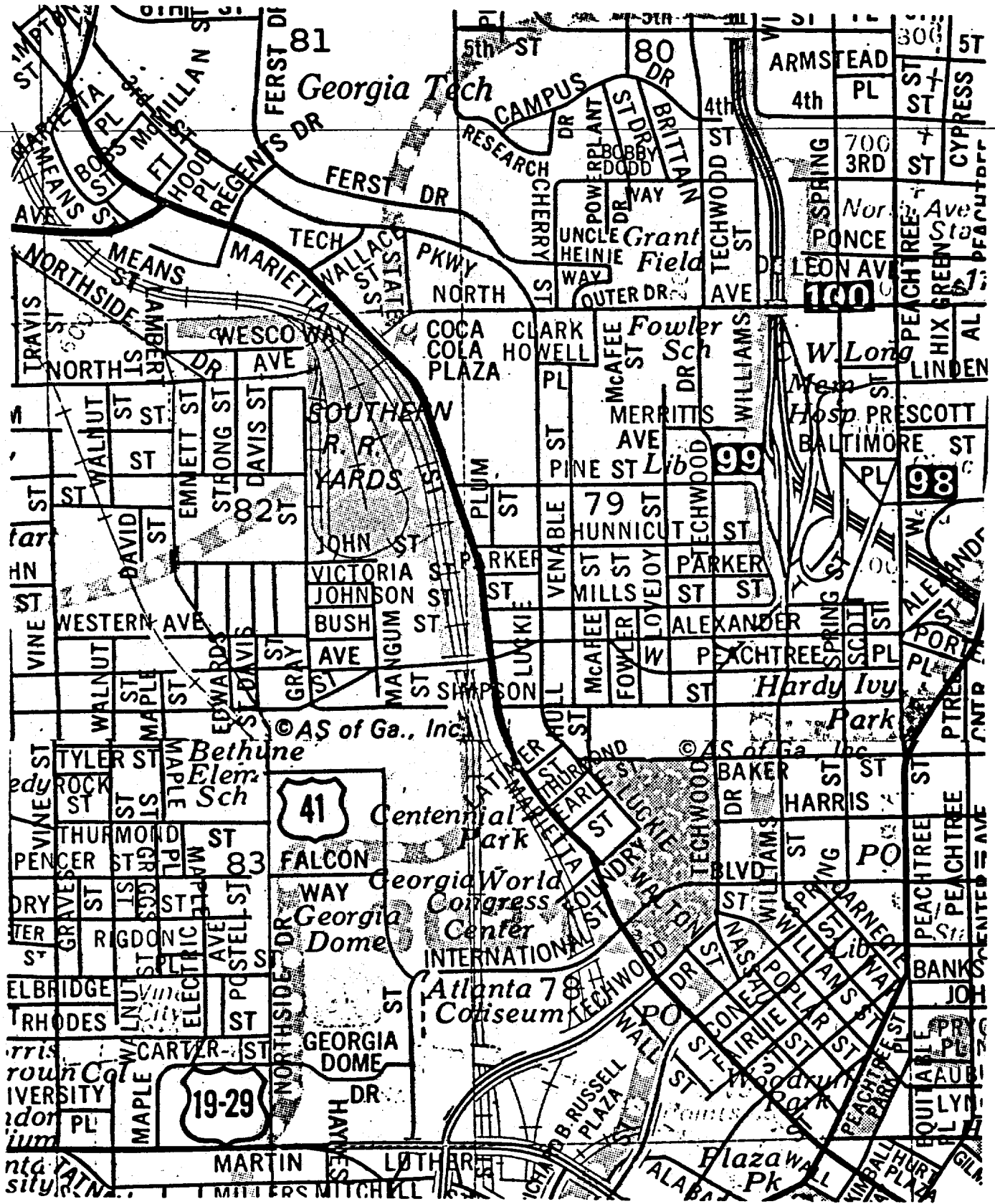
Thank you for this opportunity to serve you in this matter. Should you have any questions or requests for additional documentation, please do not hesitate to contact me.

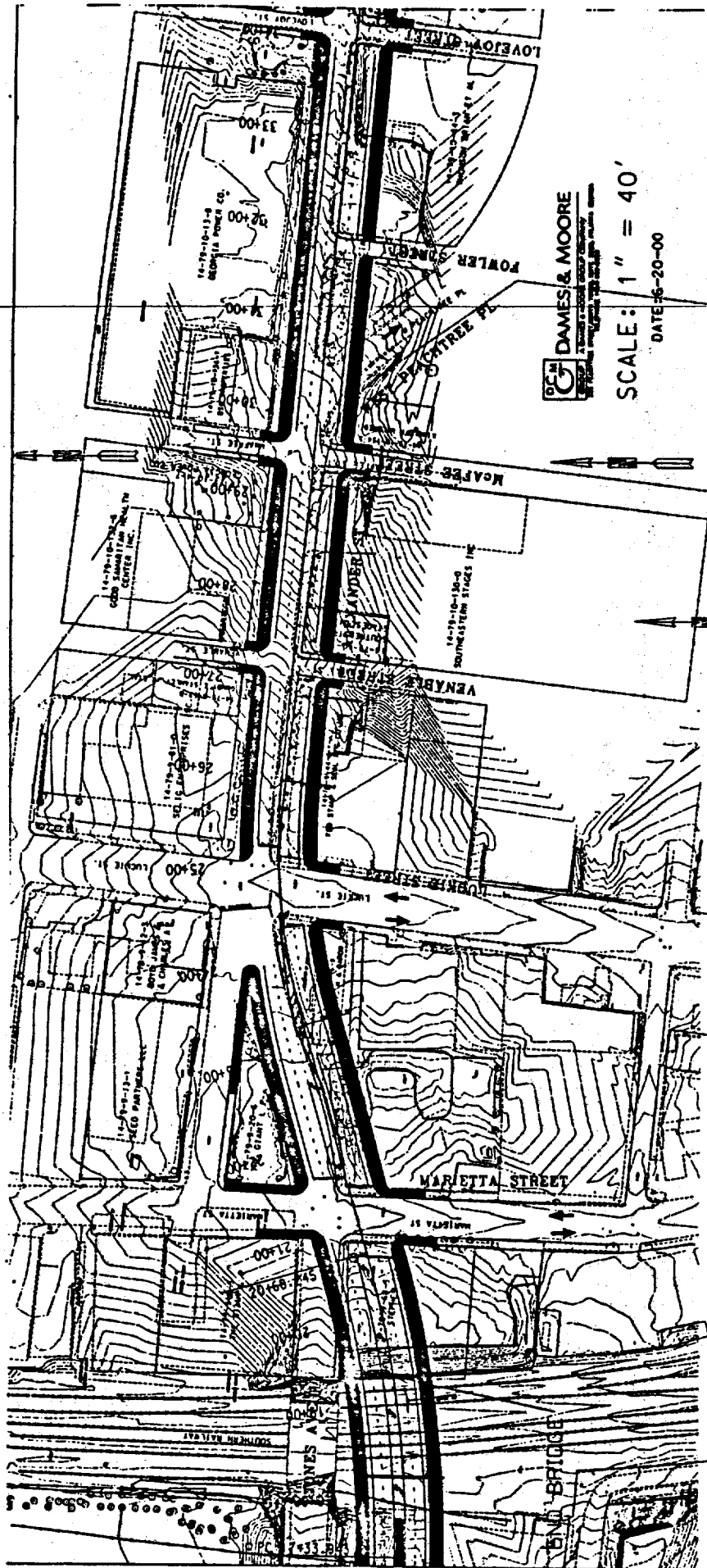
Respectfully,



John C. Lavelle
Program Manager

NEIGHBORHOOD MAP

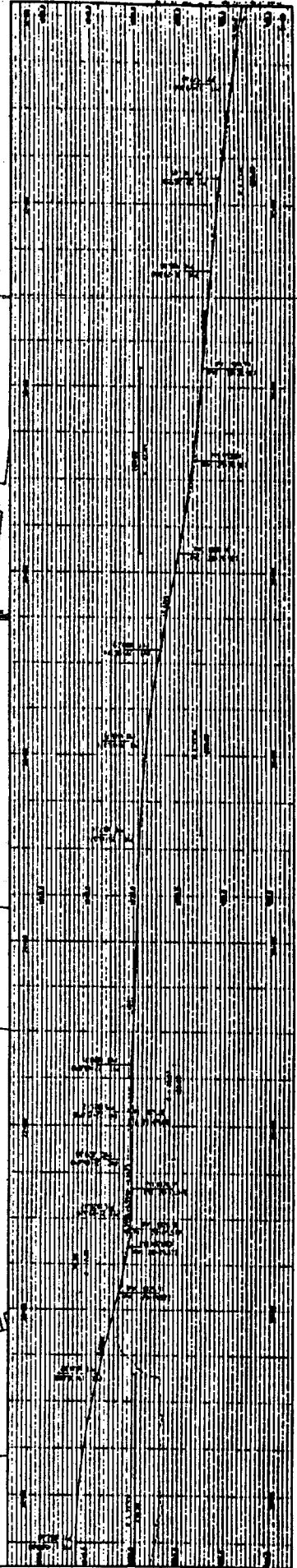


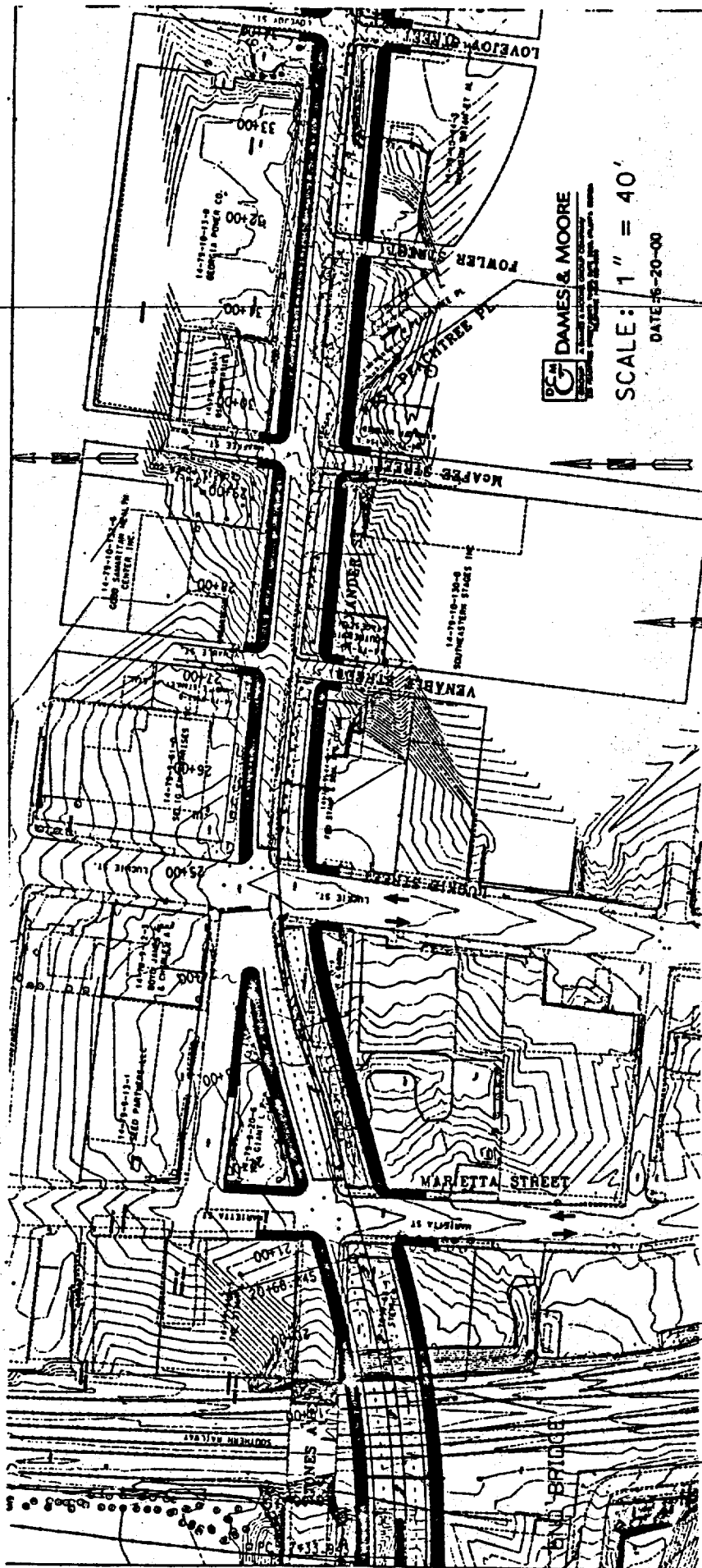


DAMES & MOORE
ENGINEERS
1000 BROADWAY
NEW YORK, N.Y.

SCALE: 1" = 40'

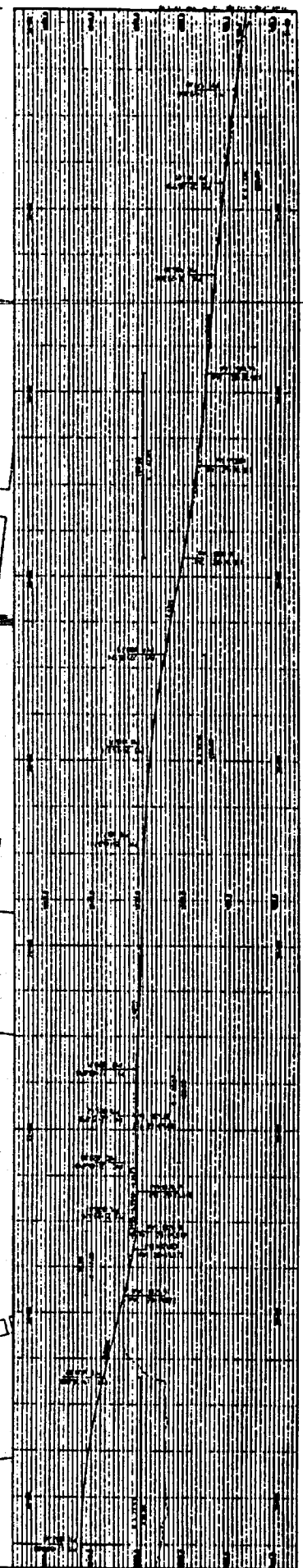
DATE: 6-20-00

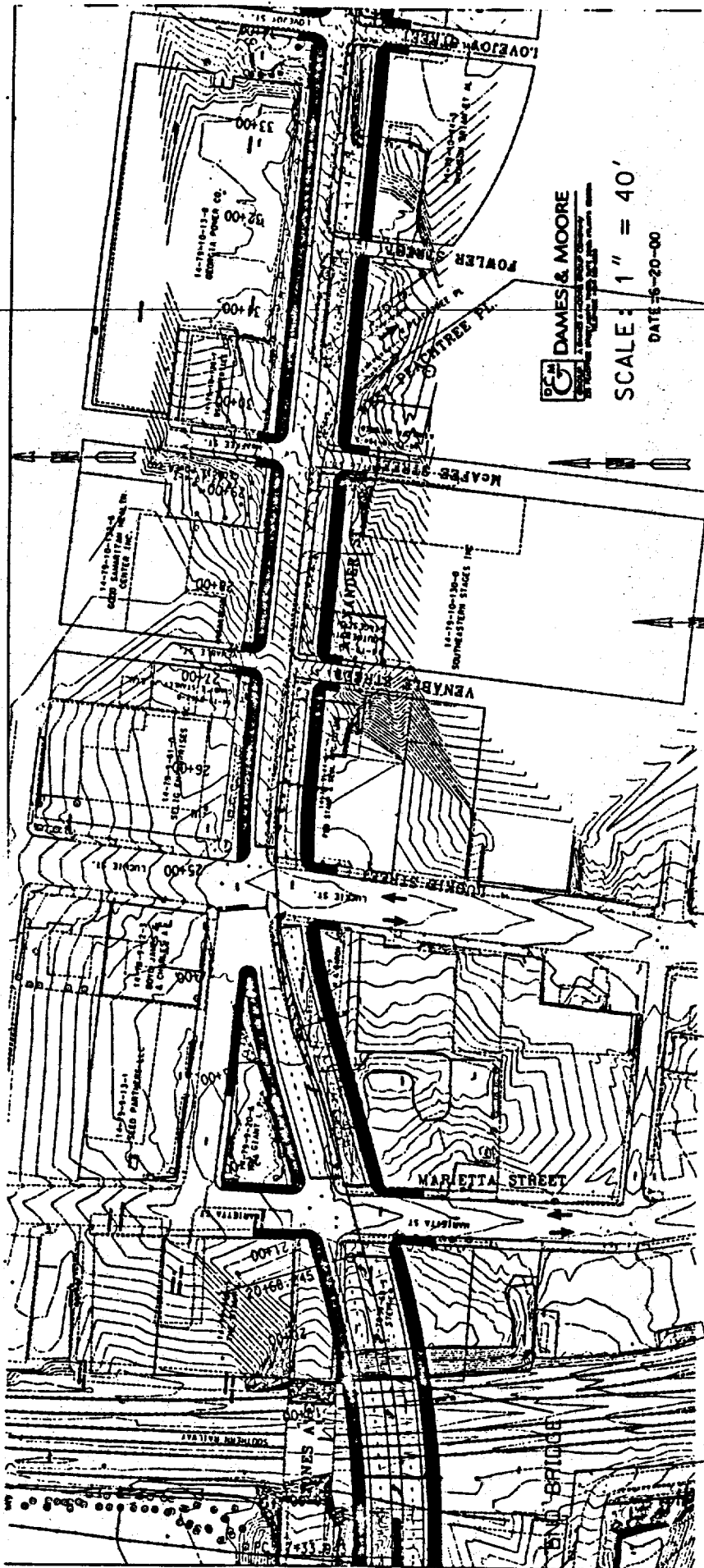




DAMES & MOORE
INCORPORATED
1000 MARKET STREET
SAN FRANCISCO, CALIF. 94102
TELEPHONE 398-1000

SCALE: 1" = 40'
DATE: 6-20-00

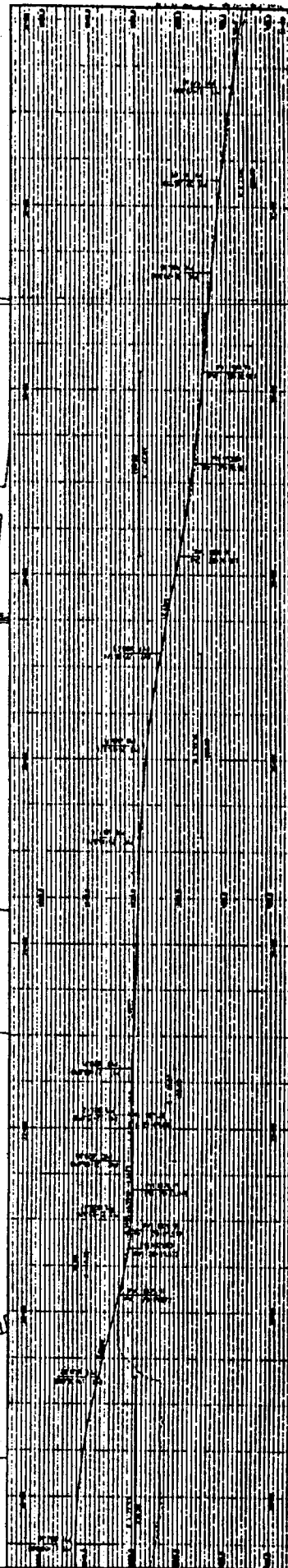




DAMES & MOORE
INCORPORATED
1000 MARKET STREET
SAN FRANCISCO, CALIF. 94102

SCALE: 1" = 40'

DATE 6-20-00



AREA OVERVIEW

The subject neighborhood is generally bound on the north by the Georgia Tech campus and the Coca Cola Plaza; on the south by Martin Luther King, Jr. Drive; on the east by W. Peachtree Street and the North Expressway (I 75/85); and on the west by Northside Drive. One of the significant land uses within the neighborhood is the CSX Railroad yards, over which this corridor will provide a new Railroad bridge (the Bridge) just west of its intersection with Marietta Street.

West of the Bridge land use appears to be dominated by the GWCC expansion. Currently, much of the land directly within the right-of-way corridor in this area is vacant. East of the Bridge agents for the Coca Cola Company and others have been acquiring various tracts of land, which are now or are soon to be vacant and awaiting development. Improved properties support secondary or tertiary commercial uses, along with social service uses and a Georgia Power substation. The overall impression is of an area in transition.

THE CORRIDOR

After a desk review of the plans, I made a field review of the subject corridor and the surrounding neighborhood. The subject project will create a right-of-way corridor having a width from approximately 85 feet to 95 feet, extending on the west from the intersection of Simpson Street with Davis Street at Northside Drive to the intersection of Alexander and West Peachtree Streets on the east. This generally West/East corridor would connect Northside Drive to West Peachtree Street via Simpson Street, Jones Avenue and Alexander Street, a linear distance of just under one mile.

There are only four properties west of the Bridge directly impacted by the corridor project; while east of the Bridge there are 18 such properties. The corridor will have a minimal impact on improved sites, affecting generally vacant properties.

APPROACH TO VALUE

An analysis of the land sales west of the Bridge show an impact on value influenced by the GWCC expansion. Land values have generally increased to about \$10.00 per square foot in the immediate vicinity of the project. Sales activity, however, does not approach the level evidenced by the market east of the Bridge. A number of the properties there have been acquired in recent years. The unit prices paid by the representatives of the Coca Cola Company and others have ranged from \$30.00 to over \$60.00 per square foot. For purposes of this analysis, I have settled on a value of \$50.00 per square foot for the land east of the Bridge and \$10.00 west of the Bridge.

The affected site improvements were generally minimal, with the exception of signs on one site (14-79-9-24) and playground equipment and landscaping on another (14-79-10-85, 88, 131).

Consequential economic damages (those beyond the value of the part taken) were judged to exist on several parcels. The reasons varied from loss of parking to proximity of the new road, to grade changes from the new road. However, an estimation of the level of consequential damages is not possible without more specific design details and appraisals of the affected parcels. Such analyses were beyond the scope of this assignment. As a result, the final cost estimate should be viewed as a realistic minimum value.

PRESENTATION

The breakdown that follows is somewhat arbitrary in that it divides the impacted parcels along the North/South axis of the proposed corridor. The parcels are presented as they are encountered proceeding from west to east. Each property is presented as it would likely be appraised; therefore, a single property might consist of one or several tax parcels. Each property's address and ownership is as shown on Fulton County records as of January 1, 2000.

It should be noted that I made an assumption of no right-of-way costs with respect to two properties: the Southern Railway site (14-82-7-87) and the rights over the Georgia Department of Transportation (GDOT) property (14-79-12-1). Typically, when a bridge is improved and raised over an existing Railroad, the Railroad donates the property rights needed to improve the structure. Similarly, GDOT will generally donate the air rights needed to improve an existing bridge over its property.

NORTH SIDE

TAX ID	ADDRESS	OWNER(S)	AREA (SF)	AMOUNT \$	SITE IMPS. \$	DAMAGES (Y/N)	TOTAL \$
14-82-9-75,73	465 Simpson 340 Gray	Charles E. Ozburn	2,950	29,500	NA	Y	29,500
14-82-7-106	337 Gray	State of Georgia	5,125	51,250	NA	Y	51,250
14-79-10-138	165 Alexander	Atlanta Union Mission	150	7,500	2,000	N	9,500
14-79-10-30	376 Techwood	Jun In Suk	400	20,000	2,000	N	22,000
14-79-11-44, 45	377 Techwood Alexander	Georgia Tech Foundation Real Estate	350	17,500	2,000	N	19,500
14-79-11-18	Alexander	Georgia Department of Transportation	NA	NA	NA	NA	NA
Subtotals			8,975	125,750	6,000		131,750

SOUTH SIDE

TAX ID	ADDRESS	OWNER(S)	AREA (SF)	AMOUNT \$	SITE IMPS. \$	DAMAGES (Y/N)	TOTAL \$
14-82-7-86, 107, 108	354 Jones, Simpson, 362 Jones Simpson	Abrams Fixture Corp.	64,250 (1)	642,500	NA	Y	642,500
14-82-7-87		Southern Railway	NA	NA	NA	NA	NA
14-79-9-24	394-412 Marietta et al	Stephen S. Selig III, et al	9,950	497,500	25,000	N	522,500
14-79-9-29, 43	Marietta	Stephen S. Selig III, et al	5,250	262,500	NA	N	262,500
14-79-9-66	362 Luckie	Morris N. Habif, et al	10,125 (2)	506,250	NA	N	506,250
14-79-9-44	355 Luckie	Atlantic Financial Group, Ltd	6,300	315,000	NA	N	315,000
14-79-10-128, 130	Alexander, 226 Alexander	Southeastern Stages, Inc.	5,375	268,750	NA	Y	268,750
14-79-10-134	McAfee	Atlantic Financial Group, Ltd	625	31,250	NA	N	31,250

14-79-70-109, 119	200 Alexander Alexander	Atlantic Financial Group, Ltd	3,000	150,000	NA	Y	150,000
14-79-10-76, 77, 78, 115	Alexander	Atlantic Financial Group, Ltd	6,725	336,250	NA	N	336,250
14-79-10-85, 88, 131	Alexander Techwood	The Sheltering Arms	8,900	445,000	20,000	N	465,000
14-79-12-1	Techwood	Georgia Department of Transportation	NA	NA	NA	N	NA
14-79-12-2	360 Williams	The Alexander Family, LP	700	35,000	NA	N	35,000
14-79-12-57, 58	Alexander Spring	Peachtree Portal, LP	4,000	200,000	NA	N	200,000
14-79-12-49	Spring	Peachtree Portal, LP	850	42,500	NA	N	42,500
14-79-12-47	356 W. Peachtree	TCW Land Fund I Holding Co.	250	12,500	NA	N	12,500
Subtotals			126,300	3,745,000	45,000		3,790,000

SUMMARIES

<u>SECTION</u>	<u>AREA (SF)</u>	<u>AMOUNT</u>	<u>SITE IMPS.</u>	<u>TOTAL</u>
North Side	8,975	\$125,750	\$6,000	\$131,750
South Side	<u>126,300</u>	<u>3,745,000</u>	<u>45,000</u>	<u>3,790,000</u>
TOTALS	135,275	\$3,870,750	\$51,000	\$3,921,750

For your additional consideration, the breakdown of these costs would be \$723,250 for property acquisition west of the Bridge and \$3,198,500 east of the Bridge.

RECONCILIATION

To the total estimated costs should be added a contingency allowance that would provide for negotiated settlements as well as increases due to condemnation decisions. Given the unit values and assumptions presented herein, I would suggest an allowance factor of 30 percent. Therefore:

Total R/W Costs	\$3,921,750
<u>Contingency</u>	<u>x 1.30</u>
Total Estimate	\$5,098,275
Final Estimate (Rounded)	\$5,100,000

ESTIMATED ADMINISTRATIVE COSTS

The range of administrative services includes title reports, appraisals, appraisal reviews, negotiations, real estate closings, and condemnation services. To the costs for these items must be added the administrative costs associated with managing the process, and consideration for overhead and profit. Typically, the costs associated with condemnation, including attorney's fees and expert witness testimony fees, are borne directly by the condemning authority. The right-of-way company's costs associated with condemnation would be covered under administrative costs. Based on the plan presented, I would estimate the costs to administer the project as follows:

Title Reports-	37 parcels @ \$150/parcel	\$5,550
Appraisals-	22 reports	38,000
Appraisal Reviews-	40% of appraisal costs	15,200
Negotiations-	22 acquisitions	19,500
Closings-	22 @ \$500/case	<u>11,000</u>
Subtotal		\$89,250
Administration, Overhead & Profit	75% of subtotal	<u>66,938</u>
Total		\$156,188
Rounded		\$156,000

AN ORDINANCE

BY: ~~CITY UTILITIES COMMITTEE~~*Debi Gaines*

01-0-1452

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT THE SUM OF \$700,000.00 AS CONSIDERATION FOR THE ABANDONMENT OF A PORTION OF MCAFEE ST., NW, SIMPSON ST., NW, VENABLE ST., NW, HULL ST., NW, AND FOWLER ST., NW; TO AMEND ORDINANCES 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028, AND 99-O-0029 TO REFLECT THE FACT THAT THE STREETS ARE NOT BEING APPRAISED TO DETERMINE THEIR FAIR MARKET FEE SIMPLE LAND VALUE; TO AMEND ORDINANCES 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028, AND 99-O-0029 TO REFLECT THE FACT THAT THE COCA-COLA COMPANY AND THE ATLANTIC FINANCIAL GROUP ARE THE PROPERTY OWNERS ENTITLED TO REQUEST THE QUIT CLAIM DEED TO THE AFOREMENTIONED STREETS; AND FOR OTHER PURPOSES.

WHEREAS, Simpson Street, Venable Street, McAfee Street, Fowler Street and Hull Street are held by the City of Atlanta as easement streets, and not fee owned rights-of-way; and

WHEREAS, because the City never had fee simple title to the streets in question, its action in abandoning the use for public road purposes extinguished any easement rights that it had, and the underlying property reverts to the adjacent property owners; and

WHEREAS, The Coca-Cola Company and the Atlantic Financial Group are now the abutting property owners to the above referenced streets; and

WHEREAS, The Coca-Cola Company wishes to compensate the City of Atlanta in the amount of \$700,000.00 for any incidental interest which the City might possess in the abandoned streets.

BE IT HEREBY ORDAINED by the Council of the City of Atlanta as follows:

Section 1. That Section 5 of Ordinances 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 are hereby amended by replacing Section 5 of those ordinances with the following language: "That the City Utilities Committee accept and approve a sum of \$700,000.00 from The Coca-Cola Company for any and all interest that the City might have in the streets listed in the aforementioned ordinances".

Section 2. That the Mayor be and is hereby authorized to accept on behalf of the City the sum of \$700,000.00 for any incidental interest the City may possess in the aforementioned abandoned streets.

Section 3. That the Mayor be and is hereby authorized to execute Quitclaim Deeds conveying any interest the City may hold in the said streets to The Coca-Cola Company and the

Atlantic Financial Group.

Section 4. That all revenues associated with these abandonments shall be deposited into the following Fund, Account and Center Number:_____

Section 5. That all ordinances and parts of ordinances in conflict herewith be and same are hereby repealed.

After recording, please return to

Larry M. Dangle
Wilson Bruck & Leay, L.L.C.
Suite 700, Overlook I
2849 Peach Ferry Road
Atlanta, GA 30339

STATE OF GEORGIA

COUNTY OF FULTON

QUITCLAIM DEED

THIS INSTRUMENT is made this ____ day of _____, 2001, by and between the **CITY OF ATLANTA**, a municipal corporation of the County of Fulton and State of Georgia, as party of the first part, hereinafter referred to as "Grantor," and **ATLANTIC FINANCIAL GROUP, LTD.**, a Texas limited partnership, as party of the second part, hereinafter referred to as "Grantee," the words "Grantor" and "Grantee" to include the neuter, masculine and feminine genders, the singular and the plural.

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) in hand paid and other good and valuable consideration delivered to Grantor by Grantee at and before the execution, sealing and delivery hereof, the receipt and sufficiency of which is hereby acknowledged, the Grantor has and hereby does remise, release, convey and forever quitclaim unto Grantee and the heirs, legal representatives, successors and assigns of Grantee, all that tract or parcel of land lying and being in Land Lots 78 and 79 of the 14th District, City of Atlanta, Fulton County, Georgia, as more particularly described on Exhibit A-1, A-2, A-3, A-4 and A-5 attached hereto and incorporated herein by this reference (the "Property").

This Quitclaim Deed was authorized by an ordinance adopted by the City Council on _____ and approved by the Mayor on _____.

TO HAVE AND TO HOLD the Property to Grantee, so that neither Grantor nor any person or persons claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

IN WITNESS WHEREOF, the Grantor has signed and sealed this Quitclaim Deed as of the date first above written.

GRANTOR:

Signed, sealed and delivered
in the presence of:

CITY OF ATLANTA

Unofficial Witness

By: _____
Mayor

(CITY SEAL)

Notary Public

My Commission Expires:

[Affix Notarial Seal]

ATTEST:

Municipal Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A-1Legal Description

All that tract or parcel of land lying and being in Land Lot 79 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

Begin at a point located at the intersection of the eastern right-of-way line of McAfee Street and the northern right-of-way line of Simpson Street; thence run along the northern right-of-way line of Simpson Street and the southern right-of-way line of McAfee Street north 89 degrees 37 minutes 05 seconds west, a distance of 30.00 feet to a point; thence leave the northern right-of-way line of Simpson Street and travel along the western right-of-way line of McAfee Street north 00 degrees 16 minutes 32 seconds east, a distance of 99.97 feet to a point; thence continue along the western right-of-way line of McAfee Street north 00 degrees 13 minutes 37 seconds east, a distance of 321.55 feet to a point; thence leave the western right-of-way line of McAfee Street and travel south 82 degrees 39 minutes 41 seconds east, a distance of 31.99 feet to a point located on the eastern right-of-way line of McAfee Street; thence run along the eastern right-of-way line of McAfee Street the following courses and distances: south 00 degrees 33 minutes 45 seconds west, a distance of 102.57 feet to a point; south 00 degrees 34 minutes 46 seconds west, a distance of 72.76 feet to a point; south 00 degrees 20 minutes 12 seconds west, a distance of 41.39 feet to a point; south 00 degrees 32 minutes 05 seconds west, a distance of 49.66 feet to a point; south 00 degrees 16 minutes 32 seconds west, a distance of 50.23 feet to a point; and south 00 degrees 26 minutes 51 seconds west, a distance of 101.02 feet to a point located on the northern right-of-way line of Simpson Street, said point being the Point of Beginning.

Said tract contains 0.30 acres or 12,889 square feet, as shown on that certain Survey for Right-of-Way Abandonment, McAfee Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

Exhibit A-2Legal Description

All that tract or parcel of land lying and being in Land Lot 79 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

Begin at a point located at the intersection of the eastern right-of-way line of Venable Street and the northern right-of-way line of Simpson Street; thence run along the northern right-of-way line of Simpson Street and the southern right-of-way line of Venable Street north 89 degrees 37 minutes 05 seconds west, a distance of 25.00 feet to a point; thence leave the northern right-of-way line of Simpson Street and travel along the western right-of-way line of Venable Street the following courses and distances: north 00 degrees 46 minutes 23 seconds east, a distance of 48.82 feet to a point; north 01 degrees 21 minutes 43 seconds east, a distance of 51.72 feet to a point; north 00 degrees 31 minutes 16 seconds east, a distance of 111.15 feet to a point; north 00 degrees 31 minutes 26 seconds east, a distance of 130.72 feet to a point; and north 00 degrees 03 minutes 00 seconds east, a distance of 77.78 feet to a point located on the southern right-of-way line of Alexander Street; thence leave the western right-of-way line of Venable Street and travel along the northern right-of-way line of Venable Street and the southern right-of-way line of Alexander Street south 89 degrees 23 minutes 50 seconds east, a distance of 26.08 feet to a point located on the eastern right-of-way line of Venable Street; thence leave the southern right-of-way line of Alexander Street and travel along the eastern right-of-way line of Venable Street south 00 degrees 42 minutes 26 seconds west, a distance of 371.43 feet to a point; thence continue along the eastern right-of-way line of Venable Street south 00 degrees 46 minutes 21 seconds west, a distance of 48.64 feet to a point located on the northern right-of-way line of Simpson Street, said point being the Point of Beginning.

Said tract contains 0.241 acres or 10,489 square feet, as shown on that certain Survey for Rights-of-Way Abandonment, Venable Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

Exhibit A-3Legal Description

All that tract or parcel of land lying and being in Land Lot 78 of the 14th District, City of Atlanta, Fulton County, Georgia, and being the northern one-half (½) of the following described property:

Begin at a point located at the intersection of the northern right-of-way line of Simpson Street and the western right-of-way line of Lovejoy Street; thence leave the northern right-of-way line of Simpson Street and the western right-of-way line of Lovejoy Street and travel south 00 degrees 28 minutes 05 seconds west, a distance of 40.84 feet to a point located on the southern right-of-way line of Simpson Street; run thence along the southern right-of-way line of Simpson Street the following courses and distances: north 89 degrees 31 minutes 55 seconds west, a distance of 95.83 feet to a point; north 89 degrees 04 minutes 07 seconds west, a distance of 59.64 feet to a point; and north 89 degrees 37 minutes 05 seconds west, a distance of 737.08 feet to a point located on the eastern right-of-way line of Luckie Street; thence leave the southern right-of-way line of Simpson Street and travel along the eastern right-of-way line of Luckie Street north 00 degrees 22 minutes 51 seconds east, a distance of 34.00 feet to a point located on the northern right-of-way line of Simpson Street; thence leave the eastern right-of-way line of Luckie Street and travel along the northern right-of-way line of Simpson Street the following courses and distances: south 89 degrees 37 minutes 05 seconds east, a distance of 659.49 feet to a point; north 79 degrees 26 minutes 44 seconds east, a distance of 33.62 feet to a point; and south 89 degrees 32 minutes 40 seconds east, a distance of 200.11 feet to a point located at the intersection of the northern right-of-way line of Simpson Street and the western right-of-way line of Lovejoy Street, said point being the Point of Beginning.

Said tract being the northern one-half (½) of the tract containing 0.73 acres or 31,785 square feet, as shown on that certain Survey for Right-of-Way Abandonment, Simpson Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

Exhibit A-4Legal DescriptionTract 1:

All that tract or parcel of land lying and being in Land Lot 79 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

Begin at a point located at the intersection of the northern right-of-way line of Simpson Street and the western right-of-way line of Fowler Street; thence leave the northern right-of-way line of Simpson Street and travel along the western right-of-way line of Fowler Street the following courses and distances: north 00 degrees 34 minutes 30 seconds east, a distance of 100.00 feet to a point; and north 00 degrees 34 minutes 33 seconds east, a distance of 165.12 feet to a point located on the southwestern right-of-way line of West Peachtree Place; thence leave the western right-of-way line of Fowler Street and travel along the southwestern right-of-way line of West Peachtree Place along the arc of a curve to the left, said arc having a distance of 34.62 feet and being subtended by a chord having a chord bearing of south 58 degrees 19 minutes 18 seconds east and a chord distance of 34.61 feet to a point located on the eastern right-of-way line of Fowler Street; thence leave the southwestern right-of-way line of West Peachtree Place and travel along the eastern right-of-way line of Fowler Street south 00 degrees 13 minutes 18 seconds east, a distance of 240.77 feet to a point located on the northern right-of-way line of Simpson Street; thence leave the eastern right-of-way line of Fowler Street and travel along the northern right-of-way line of Simpson Street south 79 degrees 26 minutes 44 seconds west, a distance of 33.62 feet to a point located at the intersection of the western right-of-way line of Fowler Street and the northern right-of-way line of Simpson Street, said point being the Point of Beginning.

Said tract contains 0.181 acres or 7,902 square feet, as shown on that certain Survey for Rights-of-Way Abandonment, Fowler Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

Tract 2:

All that tract or parcel of land lying and being in Land Lot 79 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

Begin at a point located at the intersection of the eastern right-of-way line of Fowler Street and the northeastern right-of-way line of West Peachtree Place; thence leave the eastern right-of-way line of Fowler Street and travel along the northeastern right-of-way line of West Peachtree Place along the arc of a curve to the right, said arc having a distance of 36.47 feet and being subtended by a chord having a chord bearing of north 54 degrees 11 minutes 31 seconds west and a chord distance of 36.45 feet to a point located on the western right-of-way line of Fowler Street; thence

leave the northeastern right-of-way line of West Peachtree Place and travel along the western right-of-way line of Fowler Street north 00 degrees 50 minutes 55 seconds east, a distance of 116.83 feet to a point located on the southern right-of-way line of Alexander Street; thence leave the western right-of-way line of Fowler Street and travel along the southern right-of-way line of Alexander Street north 89 degrees 53 minutes 41 seconds east, a distance of 28.02 feet to a point located on the eastern right-of-way line of Fowler Street; thence leave the southern right-of-way line of Alexander Street and travel along the eastern right-of-way line of Fowler Street south 00 degrees 04 minutes 41 seconds west, a distance of 138.20 feet to a point located on the northeastern right-of-way line of West Peachtree Place, said point being the Point of Beginning.

Said tract contains 0.085 acres or 3,692 square feet, as shown on that certain Survey for Rights-of-Way Abandonment, Fowler Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

Exhibit A-5Legal Description

All that tract or parcel of land lying and being in Land Lot 78 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

Begin at a point located at the intersection of the western right-of-way line of Hull Street and the northern right-of-way line of Baker Street; thence leave the northern right-of-way line of Baker Street and travel along the western right-of-way line of Hull Street north 01 degrees 10 minutes 33 seconds east, a distance of 184.50 feet to a point; thence leave the western right-of-way line of Hull Street and travel south 88 degrees 42 minutes 11 seconds east, a distance of 27.61 feet to a point located on the centerline of the right-of-way of Hull Street; thence travel along the centerline of the right-of-way of Hull Street south 01 degrees 17 minutes 49 seconds west, a distance of 184.03 feet to a point located on the northern right-of-way line of Baker Street and the southern right-of-way line of Hull Street; thence travel along the northern right-of-way line of Baker Street and the southern right-of-way line of Hull Street north 89 degrees 41 minutes 44 seconds west, a distance of 27.22 feet to a point, said point being the Point of Beginning.

Said tract containing 0.116 acres or 5,052 square feet, being a portion of the tract containing 0.434 acres or 18,921 square feet, shown on that certain Survey for Right-of-Way Abandonment for Hull Street, prepared by Metro Engineering and Surveying Co., Inc., bearing the seal and certification of Chester M. Smith, Jr., Georgia Registered Land Surveyor No. 1445, dated December 28, 1998.

WILSON BROCK & IRBY, L.L.C.

ATTORNEYS AT LAW

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339

LARRY M DINGLE
LDINGLE@WBLEGAL.COM

TELEPHONE
(404) 853-6060
FACSIMILE
(404) 853-1812

August 30, 2001

VIA FACSIMILE

Ms. Carolyn Fountain
City of Atlanta
City Council
55 Trinity Avenue, Suite 2900
Atlanta, GA 30335

Re: Ordinance and Quit Claim Deeds

Dear Carolyn:

Following is the Ordinance I requested that Clair Muller introduce as a personal paper on Tuesday, September 4, 2001.

Please call if you have any questions or concerns. If Clair Muller is unable to introduce this ordinance, please call me at your earliest convenience.

Sincerely,

WILSON BROCK & IRBY, L.L.C.



Larry M. Dingle

awa
Enclosures

01-0-1464
~~1102~~
REFER

**A SUBSTITUTE ORDINANCE BY
CITY UTILITIES COMMITTEE**

**AN ORDINANCE AMENDING SECTIONS 154-28
AND 154-120 OF THE CITY'S CODE OF
ORDINANCES TO ESTABLISH POLICIES AND
PROCEDURES FOR THE ADMINISTRATION AND
COLLECTION OF WATER AND SEWER
BILLINGS; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Atlanta wishes to improve the collection rate for water and sewer billings, reduce outstanding delinquencies, maintain reasonable water and sewer rates, provide better service to its customers and improve the water and sewer system for its citizens; and

WHEREAS, the City wishes to implement policies and procedures to allow for more effective and efficient means of encouraging timely payments of water and sewer billings; and

WHEREAS, the City has identified the need to properly reflect water and billing revenue on the City's books by prorating collections equitably to appropriate water, sewer and surcharge accounts; and

WHEREAS, the City has identified the need to establish defined policies and procedures for the collection of past due amounts and cutting services for delinquent accounts; and

WHEREAS, the City wishes to implement a late charge for the late payment of \$5.00 for the late payment of water and sewer billings.

**NOW THEREFORE, BE HEREBY ORDAINED BY THE COUNCIL OF THE
CITY OF ATLANTA, GEORGIA, as follows:**

Section 1: That Section 154-28 of the City's Code of Ordinances is amended by deleting it in its entirety and substituting in its place the following:

Disputed bills.

The commissioner of water or the company shall have the duty and responsibility to provide notice and an opportunity to be heard to users of water and sewer services to resolve disputed water/sewer bill amounts prior to termination or

other legal action to collect the full amount of the bill, which will include the following:

1. Written notice to consumers that they have the right to dispute such bill amounts by providing to the company on or before the due date of the bill to be disputed written notice setting forth the dispute in accordance with the instructions contained on the disputed bill, provided, however, that failure to either pay the bill or provide written notice of the dispute of the bill will be grounds for the commissioner of water or the company to provide notice that the water service may be immediately terminated without additional notice.
2. The designation of employees empowered to correct mistakes in the determination of the amounts billed to customers that have properly submitted written notice of the dispute of a bill to the company, whose duties will include meeting with the disputing customer, investigating the basis of the dispute, sending a written response to the customer of the result of the investigation prior to any termination of services or other legal action to collect the full amount of the bill. The written responses will be in the form of a certified letter and will include notice of the availability of a hearing before the water and sewer appeals board after payment of the amount in dispute.
3. Credits and adjustments to bills of up to \$500.00 where mistakes have been determined by the designated employees to have been made in the amounts of the bills. Any amount over \$500.00 for credit and adjustment must be recommended to the council for approval.

Section 2: That Section 154-120 of the City's Code of Ordinances is amended by deleting it in its entirety and substituting in its place the following:

Sec. 154-120. Non-payment of bills.

The Department of Water and the Treasury Division of the Department of Finance will develop written policies and procedures for the billing, collection and cut-off procedures for the provision for water and sewer services. The policies

and procedures developed must contain at least the following provisions:

- (a) Upon the failure of any person to: [i] pay any water bill assessment, advance payment or charge against any premises for which the person is responsible by the due date set forth in the bill; or [ii] to send a written notice of dispute to the company in accordance with the instructions contained on the applicable bill, the person will be sent a notice that their service will be terminated without further notice and the commissioner of water and the company are authorized to turn off and discontinue water service to the person and premises until the bill or charge is paid, and a charge fixed by the council will be made for each turnoff. Subject to O.C.G.A. § 30-60-17, the delinquent bill or charge shall be a lien on the property where the bill or charge was incurred. In no event will the termination of service be later than 30 days from the due date of the bill for monthly bills and 60 days for bi-monthly bills.
- (b) A late fee of \$5.00 or 5% of the total bill, whichever is greater, will be assessed on all water and sewer bills rendered that are not paid by the established due date on the bill. The bill rendered for the following billing cycle will contain the past due amount plus the \$5.00 late fee.
- (c) The past due charges, late fee and any other appropriate charges must be paid in full before service is restored. Said late fees shall be deposited into fund, account, and center number 2J01 462601 B00001.
- (d) The department of finance shall cause books recording all liens for unpaid water and sewer bills and charges to be prominently displayed for public inspection in the office where the chief financial officer keeps other lien information books and in the office where the general execution docket of the county wherein the delinquent property is located.
- (e) Subject to O.C.G.A. § 30-60-17, the charge must be paid before water is turned on again unless the

commissioner of water, in the commissioner's discretion, waives such charges.

- (f) The commissioner of water or the commissioner's designee may authorize agreements, with the person responsible for the payment of water services, for an installment payment schedule not to exceed 12 months in order to alleviate the customer's financial burden caused by periods of high usage.
- (g) The commissioner of water and the company are authorized to turn off and discontinue water service to any property where the responsible party does not meet the agreed-upon payment schedule and make timely payments for current usage charges.
- (h) Water and sewer revenues collected will be prorated between the water, sewer and industrial surcharge accounts on a percentage to total bill basis when received and recorded on the books. Any partial payments received shall be applied in the appropriate percentages to the water, sewer and industrial surcharge accounts based on each accounts pro rata share of the total water/sewer bill. All past due amounts from the previous billing periods must be paid in order to continue water service. All cutoff dates must be strictly adhered to and enforced. When calculating the application of the appropriate percentages to the water, sewer and industrial surcharge accounts on a partial payment, the methodology in the following hypothetical must be used:
 - i. **Total Water/Sewer/Industrial Surcharge Bill = \$1000 comprised of \$400 Water, \$400 Sewer and \$200 Industrial Surcharge;**
 - ii. **Pro-Rata Allocation = Water-40% + Sewer-40% + Industrial Surcharge-20%;**
 - iii. **Total Water/Sewer/Industrial Surcharge Bill Collected = \$500;**
 - iv. **Allocate As Follows:**

1. Water (.4 x \$500 = \$200);
2. Sewer (.4 x \$500 = \$200); and
3. Industrial Surcharge (.2 x \$500 = \$100).

Section 3: That all ordinances and parts of ordinances in conflict with this Ordinance are repealed.

CONDITION FOR APPROVAL FORM
(TO ACCOMPANY LEGISLATION)

COMMITTEE: CCL

DATE: 11/13/87

ORDINANCE # 01-0-1464 RESOLUTION # _____

REQUESTED BY: _____

DIRECTED TO: _____

NATURE OF CONDITION FOR APPROVAL:

Sub A note
None

WHEN IS THIS INFORMATION DUE, AND TO WHOM?

WILL THIS RESULT IN AN AMENDMENT TO THE LEGISLATION?

YES () NO ()

WILL THIS RESULT IN A SUBSTITUTE TO THE LEGISLATION?

YES () NO ()

HAS THIS INFORMATION BEEN RECEIVED? YES () NO ()

DATE OF RECEIPT: _____

AN ORDINANCE BY



01-0-1464

**AN ORDINANCE AMENDING SECTION 154-120 OF THE
ATLANTA CITY CODE OF ORDINANCES TO
ESTABLISH POLICIES AND PROCEDURES FOR THE
ADMINISTRATION AND COLLECTION OF WATER
AND SEWER BILLINGS AND FOR OTHER PURPOSES.**

WHEREAS, the City of Atlanta wishes to improve the collection rate for water and sewer billings, reduce outstanding delinquencies, maintain reasonable water and sewer rates, provide better service to its customers and improve the water and sewer system for its citizens; and

WHEREAS, the City wishes to implement policies and procedures to allow for more effective and efficient means of encouraging timely payments of water and sewer billings; and

WHEREAS, the City has identified the need to properly reflect water and billing revenue on the City's books by prorating collections equitably to appropriate water, sewer and surcharge accounts; and

WHEREAS, the City has identified the need to establish defined policies and procedures for the collection of past due amounts and cutting services for delinquent accounts; and

WHEREAS, the City wishes to implement a late charge for the late payment of water and sewer billings equaling _____% of the unpaid balance or \$_____, whichever is greater.

NOW THEREFORE, BE HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Section 154-120 of the Atlanta City Code of Ordinances (Code) be amended to add a new paragraph (a) reading as follows and renumbering the existing paragraphs:

“The Department of Water and the Treasury Division of the Department of Finance will develop written policies and procedures for the billing, collection and cut-off procedures for the provision for water and sewer services.” The policies and procedures developed must contain the following provisions”:

1. Customers who do not pay their bill by the established due date of the bill rendered will be sent a notice their service will be terminated without further notice notwithstanding their right of appeal for disputed charges. In no event should the termination of service, subject to the right of appeal for disputed charges, be later than 30 days from the due date of the bill.
2. The bill rendered for the following billing cycle will contain the past due amount plus a late fee equal to _____% or \$ _____ whichever is greater.
3. The past due charges, late fee and any other appropriate charges must be paid in full before service is restored. Said late fees shall be deposited into fund, account, and center number 2J01 462601 B00001.

Section 2: That Section 154-120 of the Code be amended by adding a new paragraph (b) reading as follows and renumbering the existing paragraphs:

“A late fee of _____% or \$ _____, whichever is greater, will be assessed on all water and sewer bills rendered that are not paid by the established due date on the bill.”

Section 3: That Section 154-120 of the Code be amended by adding a new paragraph (c) reading as follows and renumbering the existing paragraphs:

“Water and sewer revenues collected will be prorated between the water, sewer and industrial surcharge accounts on an equitable basis when received and recorded on the books. Any partial payments received shall be applied in the appropriate percentages to the water, sewer and industrial surcharge accounts based on each accounts pro rata share of the total water/sewer bill collected. All past due amounts from the previous billing periods must be paid in order to continue water service. All cutoff dates must be strictly adhered and enforced.”

Section 4: That Section 154-120 of the Code be amended by deleting existing paragraphs (d) and (e) providing for installment payments in their entirety.

Section 5: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

CITY COUNCIL
ATLANTA, GEORGIA

01-0-1577

AN ORDINANCE

Councilmember "Able" Mable Thomas

An Ordinance to amend Section 138-8 Street name changes of the Code Of Ordinances of the City of Atlanta so as to additional notification criteria And for other purposes

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Section 138-8, subsection (a) **Street name change** of the Code of Ordinances, which reads:

Sec. 138-8. Street name changes.

- (a) The municipal clerk shall notify in writing all abutting property owners and occupants of any proposed street name changes, giving all pertinent information, including the date of the public hearing to be held as required in this section. The notices shall be mailed to the addresses shown on the tax records of the city and to the managing authority if such street address contains more than one unit. These notices shall be mailed at least 14 days prior to the date of the public hearing.

Be amended by adding a new paragraph to read:

Upon the introduction of legislation to change a street name, no action shall be taken by the Committee until the following has been accomplished:

- (1) said proposal shall be forwarded to the appropriate neighborhood planning unit(s) for their information; and
- (2) that notices of the public hearing of said name change shall be posted along that street no less than one-quarter mile apart.

Section 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

E-4

AN ORDINANCE BY COUNCIL MEMBER CLAIR MULLER

AN ORDINANCE RESCINDING ORDINANCE NOS. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 AND 99-O-0029 WHICH AUTHORIZED THE ABANDONMENT OF A PORTION OF MCAFEE ST., N.W., SIMPSON ST., N.W., VENABLE ST., N.W., HULL ST., N.W. AND FOWLER ST., N.W. OWNED BY AND LOCATED IN THE CITY OF ATLANTA, GEORGIA; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City"), by prior Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029, authorized the abandonment of a portion of McAfee St., N.W., Simpson St., N.W., Venable St., N.W., Hull St., N.W. and Fowler St., N.W. (collectively, the "Property") owned by and located in the City and described more particularly in those Ordinances; and

WHEREAS, after due consideration, it has been determined to be desirable and in the best interests of the City to not abandon the Property; and

WHEREAS, accordingly, the City desires to rescind Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1. That Ordinance Nos. 99-O-0025, 99-O-0026, 99-O-0027, 99-O-0028 and 99-O-0029 are rescinded in their entirety.

Section 2. That all Code Sections, Ordinances, and parts of Code Sections and Ordinances in conflict with this Ordinance are waived.

CITY COUNCIL
ATLANTA, GEORGIA

01-0-1827

AN ORDINANCE

BY; CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE GEORGIA TECH FOUNDATION REAL ESTATE HOLDING CORPORATION FOR THE CONSTRUCTION AND OPERATION OF PRIVATE UTILITY FACILITIES CROSSING UNDER SPRING STREET; AND TO WAIVE THE REQUIREMENT FOR BONDING AND RENTAL PAYMENTS; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia Tech Foundation Real Estate Holding Corporation (GTFREHC) has agreed to construct a multi-building research facility for use by the Georgia Institute of Technology (Ga. Tech) in an area bounded by the Downtown Connector, West Peachtree Street, 4th Street, and 5th Street; thereby extending and connecting the Tech Campus to Midtown; and

WHEREAS, Spring Street bisects the proposed research facility; and the provision of state of the art computer and communication connections, as well as fire protection, emergency power generation, and other essential utility connections, necessitate the construction of said utility facilities under the Public Right-of-Way of Spring Street; and

WHEREAS, the Director of the Bureau of Buildings and the Commissioner of the Department of Public Works have reviewed the agreement and the plans for the proposed facilities, and have determined that said plans and agreement meet the technical requirements set forth in Section 138-24 (b) of the City of Atlanta Code of Ordinances with the exception or paragraphs (b) 4 and (b) 8 (performance bond), and paragraph (b) 19 (rental payments) which are to be waived;

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

Section 1. That the mayor is hereby authorized to enter into an Encroachment Agreement, as outlined in Section 138, Article II of the City of Atlanta Code of Ordinances, with GTFREHC (the substance of which is set forth on Exhibit "A") for the construction, installation, operation, use, and maintenance of private utilities, conduits, and facilities crossing under Spring Street between 4th Street and 5th Street.

Section 2. That the GTFREHC shall indemnify the City and hold the City harmless from any and all claims arising from the construction, installation, operation, use, maintenance, and removal of said utilities, conduits, and facilities.

Section 3. That the GRFREHC agrees to pay to the CITY a one-time license fee of \$5,000 as per City of Atlanta Code of Ordinances Section 138-129(b)(5).

Section 4. That this agreement shall not become binding upon the City and the City shall incur no liability upon the same until said agreement has been executed by the Mayor and delivered to the contracting parties.

Section 5. That any resolution or part of any resolution that may be in conflict, is hereby waived with regard to, and to the extent of the conflict for this location only.

RIGHT-OF-WAY ENCROACHMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 2001 by and between the CITY OF ATLANTA, a municipal corporation, chartered pursuant to the law of the State of Georgia, (the CITY) and the Georgia Tech Foundation Real Estate Holding Corporation, a non-profit corporation, incorporated in the State of Georgia, (GTFREHC).

WITNESSETH THAT:

WHEREAS, the Georgia Tech Foundation Real Estate Holding Corporation (GTFREHC) has agreed to construct a multi-building research facility for use by the Georgia Institute of Technology (Ga. Tech) in an area bounded by the Downtown Connector, West Peachtree Street, 4th Street, and 5th Street; thereby extending and connecting the Tech Campus to Midtown; and

WHEREAS, Spring Street, a public right-of-way under the jurisdiction of the City of Atlanta, bisects the proposed research facility; and the provision of state of the art computer and communication connections, as well as fire protection, emergency power generation, and other essential utility connections, necessitate the construction of said utility facilities under the Public Right-of-Way of Spring Street; and

WHEREAS, the City of Atlanta Code of Ordinances (Section 138, Article II) requires a Right-of-Way Encroachment Agreement for the construction and operation of private utilities and facilities within the public right-of-way; and

WHEREAS, the Council of the City of Atlanta has Authorized the Mayor, by Resolution, to enter into an agreement for the same;

NOW, THEREFORE, for and in consideration of the mutual agreements of the parties hereinafter set forth and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereby covenant and agree as follows:

(1) In the opinion of the Commissioner of Public Works the construction, installation, operation, use, and maintenance of private utilities, conduits, and facilities crossing under Spring Street between 4th Street and 5th Street, as shown on attached engineering drawings will constitute a benefit to the public and, except for permitted temporary disruptions of service, will not adversely impact the ability of the Right-Of-Way to handle vehicular or pedestrian traffic or otherwise to perform their intended function.

(2) This agreement is and shall be a condition of a permit for the construction, installation, operation, use, and maintenance of private utilities, conduits, and

facilities crossing under Spring Street between 4th Street and 5th Street, and that this agreement shall be binding upon GTFREHC, the owners of the property abutting the Right-of-Way, and their successors in title in perpetuity or until the agreement is ended by mutual consent of the CITY and the agreeing parties.

(3) All alterations, excavations or encroachments permitted on, in, over, under or within the Public Right-of-Way of Spring Street shall be pursuant to a plan, calculations, and technical specifications prepared by a professional engineer licensed to practice in the State of Georgia, which plans, calculations and technical specifications have been approved by the Commissioner of Public Works pursuant to the standards set forth in or promulgated pursuant to Chapter 138 of the City of Atlanta Code of Ordinance and, when applicable, the standards of State Department of Transportation or the Federal Highway Administration or both.

(4) The City of Atlanta requirements for a performance bond are hereby waived.

(5) GTFREHC agrees to acquire or provide appropriate insurance to indemnify and hold harmless the CITY, its agents, officers and employees from all claims arising out of any injury to Persons or damage to property resulting from the changes to or work on, in, over, under or within the Right-of-Way by GTFREHC, or any contractor employed by GTFREHC, or any of the agents or employees of GTFREHC, it's contractors, and affiliates.

(6) GTFREHC's obligation to hold the City harmless against all claims arising out of the construction, operation, use, maintenance or removal of the encroachment or excavation shall not be waived or reduced because of the Commissioner of Public Works having approved by the plans and specifications for the encroachment or excavation or by the requiring or not requiring modifications thereto, even though the City may be found to have been negligent as a matter of law because of its acts or failure to act in regard thereto.

(7) All parties to this agreement are signatories hereto, as evidenced by a title certificate of an attorney licensed to practice law within this state, which title certificate sets forth the names and addresses of the owners of the property or structures to be connected by said utility facilities and the names and addresses of the lessors and lessees of the property or structures, together with sufficient information as to the terms of any leases of the property or structures and the corporate names of any parties.

(8) Parties acknowledge and agree that the granting of permission to construct an encroachment or excavation on, in, over, under or within any public street or public alley within the City is contingent upon the agreement of the owner and the lessor of the tracts of land adjacent to the street or alley affected by the encroachment or excavation to remove the encroachment or excavation and to

replace any area beneath the street or alley where the encroachment or excavation is constructed to a condition satisfactory to the City within ninety (90) days after being notified to do so by the Commissioner of Public Works without cost to the City and to provide security, if requested to do so by the City, to ensure that the encroachment or excavation will be removed or backfilled and the area returned to a condition satisfactory to the Commissioner of Public Works without the cost to the City.

(9) The GTFREHC agree to pay the CITY a one-time license fee of \$5,000 as per City of Atlanta Code of Ordinance Section 138-129(b)(5).

(10) This agreement is not exclusive and does not negate any past, present, or future agreement that the CITY may make with any other utility owner or provider for use of the public right-of-way. GTFREHC agrees to determine at its own expense, the location of all above ground and below ground public utilities and private utilities in the area where the encroachment or excavation is to be constructed, and agrees if necessary to make arrangements for the removal or relocation of those utilities as appropriate, at no expense to the CITY.

(11) GTFREHC agrees to conduct all activities within the right-of-way in accordance with applicable local, state, and federal rules, regulations, and standards. GTFREHC agrees to maintain said private utilities and facilities in good condition, and to repair any and all damage to any City facilities, and any public or private utilities, and to reimburse the City for any consequential damage that may result from the construction and operation of said private utilities and facilities within the public right-of-way. In the event that CITY determines that the condition of said private utilities and facilities present an imminent danger to life or property, the City may undertake all reasonable measures to protect life or property of the public at large, and the expense of such measures will be borne by GTFREHC.

(12) GTFREHC agrees to remove all private utilities and facilities from the Public Right-of-way without cost to the CITY if the Commissioner of Public Works determines that such removal is required for the safe and efficient use of the right-of-way by the public.

(13) Parties agree that all notices, demand, and request required hereunder shall be in writing and shall be sent to the CITY or to GTFREHC by United States Mail, registered or certified, return receipt requested, , addressed as follows:

TO THE CITY: Commissioner
 City of Atlanta Department of Public Works
 68 Mitchell Street, S. W.
 Atlanta, GA. 30335

TO GTFREHC: John B. Carter, Jr.

Georgia Tech Foundation
177 North Avenue
Atlanta, GA. 30332

Either party may change its address for receipt of notices by giving the other party a notice of such change which meets the requirements of this provision.

(14) This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and no representations or agreements, oral or otherwise, which are not embodied herein, shall be of any force or effect.

(15) This Agreement is intended as a covenant running with the land and shall be binding upon and shall inure to the benefit of the successors, the successors in title, and the assigns of the parties to this Agreement.

(16) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have caused their hands and seals to be affixed hereto on the day and year first above written.

Signed, sealed and delivered this _____ day of _____, 2001, in the presence of:

Witness

Notary Public

GEORGIA TECH
FOUNDATION REAL ESTATE
HOLDING CORPORATION

THE CITY OF ATLANTA, a Georgia
Municipal Corporation

Officer

By: _____
Mayor

Officer

Attested: _____
Municipal Clerk

COUNCIL FLOOR AMENDMENT
NOVEMBER 19, 2001

ORDINANCE 01-O-1886

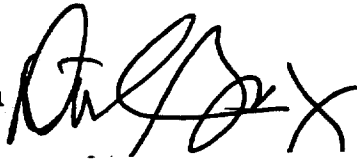
Amend Section 1 by deleting the existing language in its entirety and by inserting in lieu thereof the following:

Section One: That Chapter 138, Article IV, Section 138-128 be amended by adding a new sub-section (f) which shall read as follows:

- (f) No permit shall be issued by the City of Atlanta pursuant to Chapter 138 to any entity that is not a party to a current franchise agreement or revocable license agreement with the City of Atlanta, or is not current in the payment of any franchise fees, revocable license fees, or any other fees imposed pursuant to this Chapter.**

AN ORDINANCE

Councilmember Derrick Boazman



An Ordinance to amend Section 138-38 of Article V of the Code of Ordinances of the City of Atlanta so as to require that any franchisee which is not current in the payment of its franchise fees shall not be issued any permit by the City of Atlanta; and for other purposes.

WHEREAS, the City of Atlanta is a multi-billion dollar business; and

WHEREAS, the City Council has a fiduciary responsibility to its citizens and the ratepayers of the City through its policymaking function; and

WHEREAS, it is crucial to the economic health of the City that all fees, taxes and other assessments be paid in a timely manner.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

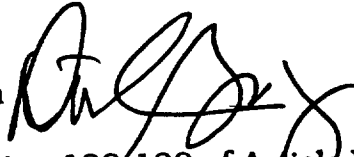
Section 1: That Section 138-128 of Article V.. **Telecommunications Franchisees and Revocable Licenses**, be amended to add a new subsection (f) to read:

"(f) No permit shall be issued by the City of Atlanta to a Franchisee which is not current in the payment of its franchise fees."

Section 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

AN ORDINANCE

Councilmember Derrick Boazman



An Ordinance to mend Section 138-138 of Article V of the Code of Ordinances of the City of Atlanta so as to require that any franchisee which is not current in the payment of its franchise fees shall not be issued **any** permit by the City of Atlanta; and for other purposes

WHEREAS, the City of Atlanta is a multi-billion dollar business; and

WHEREAS, the City Council has a fiduciary responsibility to its citizens and the ratepayers of the City through its policymaking function; and

WHEREAS, it is crucial to the economic health of the City that all fees, taxes and other assessments be paid in a timely manner.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: That Section 138-128 of Article V.. **Telecommunications Franchisees and Revocable Licenses**, be amended to add a new subsection (f) to read:

"(f) No permit shall be issued by the City of Atlanta to a Franchisee which is not current in the payment of its franchise fees."

Section 2: That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

AN ORDINANCE BY

COUNCILMEMBER VERN McCARTY

CITY COUNCIL
ATLANTA, GEORGIA

01-0-1906

TO AMEND SECTION 138-127 (h 1) OF THE CITY
OF ATLANTA CODE OF ORDINANCES TO
REDUCE THE TELECOMMUNICATION
FRANCHISEES FEE FROM THREE (3%) PERCENT
TO TWO (2%) PERCENT; AND FOR OTHER
PURPOSES.

WHEREAS, the City of Atlanta did increase its franchise fee from 1.5% to 3% by
way of Ordinance 00-O-1307; and

WHEREAS, this increase will present a financial hardship to the citizens of
Atlanta in the way of pass through from the Telecommunication Industry; and

WHEREAS, the Telecommunication Industry is willing to compromise on a 2%
franchise fee; and

WHEREAS, the citizens and the city of Atlanta will be the ultimate winners in
the reduction of this fee; and

WHEREAS, this will address any concerns the neighbors and the affected
business community may have and will not cause any undue hardships for
anyone.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
ATLANTA, GEORGIA as follows:

SECTION 1: That the Mayor or his designee is authorized to amend Section 138-
127 (h) 1 to read as follows:

Measure of compensation--Telecommunication franchisees and revocable
licensees shall pay the city an annual franchise fee equal to two percent of the
franchisee's annual gross revenue, provided that a universal service provider
shall pay the city a franchise fee equal to two percent of the universal service
provider's gross revenue, and further provided that in any calendar year that a
franchisee's gross revenue does not exceed \$500,000.00, the franchise fee shall be
\$15,000.00 per year.

SECTION 2: The changes are effective upon the Mayor's approval.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith be
and the same are hereby repealed.

E-8

01-0-1984

Ordinance by Michael Julian Bond

Ordinance to Repeal & Portion
of Raymond Street SW to
S.N.C.C. Square and for
Other purposes

AN ORDINANCE

BY COUNCILMEMBER CLAIR MULLER

01- 0 -2001

AN ORDINANCE TO TRANSFER \$200,000
FROM THE 1994 BOND REFERENDUM
PROGRAM STORMWATER RESERVE FUND
TO STORMWATER CONTROL PROJECTS FOR
PEACHTREE CREEK AND ATLANTA
MEMORIAL PARK EAST AND WEST OF
NORTHSIDE DRIVE.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
ATLANTA, GEORGIA that \$200,000 from the 1994 Bond Referendum Program be:

TRANSFERRED FROM THE STORMWATER RESERVE FUND
ACCOUNT # _____

And

TRANSFERRED TO STORMWATER CONTROL PROJECTS FOR
PEACHTREE CREEK AND ATLANTA MEMORIAL PARK EAST
AND WEST OF NORTHSIDE DRIVE
ACCOUNT # _____

AN ORDINANCE BY

COUNCILMEMBER CLAIR MULLER

01-0-2004

**AMENDING ARTICLE II, DIVISION 3
RATES AND CHARGES SECTION OF
THE CITY OF ATLANTA'S CODE OF
ORDINANCES; AND FOR OTHER
PURPOSES.**

WHEREAS, the City of Atlanta is charged with the responsibility of the removal of garbage and other solid waste from single-family residential units; and

WHEREAS, a Sanitary Service fee is assessed against the property owners which includes a base rate plus a per square foot of unpaved street frontage of properties; and

WHEREAS, this calculation has caused undue confusion to the rate payers as well as a hardship to some; and

WHEREAS, the development and implementation of a base rate fee only for Sanitary Service would eliminate some of the uncertainty rate payers currently have; and

WHEREAS, the removal of the "Street Sweeping" line item from the Sanitary Service Bill would further erase the uncertainty rate payers have with this charge and make paying this bill more palatable; and

WHEREAS, one of the impetus for rewriting this section of the code is to move toward a Quarterly Billing Cycle and an Environmental Bill i.e. solid waste, water and storm water included on one bill; and

WHEREAS, the legislation will also address what the Bureau of Sanitary Service will pickup routinely and what they will not pickup without a special request from the property owner/resident (i.e. white goods, large amounts of leaves, tree limbs, etc.); and

WHEREAS, the Bureau of Sanitary Services is preparing to become an Enterprise Fund and the accurate accounting of all funds is a prerequisite for this transition from General Fund to Enterprise Fund to occur; and

WHEREAS, the amendment to the Rates and Charges Section of Article II is

require to accomplish the specificity that the Code of Ordinances needs to get the City of Atlanta and citizens of Atlanta to a point of being comfortable with the charges that are being assessed and the rate that is being paid.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That the Rates and Charges Section of Article II Division 3 is deleted in its entirety and the following is inserted in lieu thereof:

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

DIVISION 3. RATES AND CHARGES*

*Charter reference(s)--Solid waste collection and disposal rates authorized, app. I(27).
State law reference(s)--Rates and charges generally, O.C.G.A. § 12-8-39.

Sec. 130-76. Increase in solid waste charge or commercial and industrial surcharge.
The solid waste charge established in this division or commercial and industrial surcharge established in this division shall not be increased in any year by more than 20 percent of the charges for the preceding year without approval by the council.

(Code 1977, § 9-6126)

Sec. 130-77. Solid waste charge.

(a) Established. It is determined necessary for the protection of public health, welfare and convenience of the city to fix and collect solid waste charges upon the owner of each lot within the city.

(b) Determination of amounts. For the purposes provided in subsection (c) of this section, there is charged and assessed to the owner of each lot within the city a solid waste charge and assessment payable as provided in this subsection and in the amount determinable as follows:

(1) The solid waste charge shall be determined annually by the commissioner to provide sufficient revenue for operation of the solid waste collection and disposal system, to pay debt requirements and to provide necessary reserves for debt and improvements as set forth in the annual budget. The solid waste charge shall be made effective January 1 of each year and shall be filed with the municipal clerk by the commissioner not later than the last Council meeting of the previous year.

(2) No person disposing of waste materials at any solid waste disposal facilities or transfer stations operated by the city, either under a permit or without a permit, shall be relieved from any solid waste charge assessed by the city.

(c) Uses of proceeds. The revenue received from the collection of the charges as authorized in this section, together with all such other revenue derived from the operation of the city's solid waste collection and disposal system, shall be deposited with the chief financial officer and credited to the solid waste revenue fund and shall be used for the following purposes:

(1) The operation and maintenance of the solid waste collection and disposal system and incidental expenses connected therewith;

(2) To pay debt requirements on revenue bonds issued to provide funds for the construction, improvement or repair of the solid waste collection and disposal system facilities used in connection with the operation of the system;

(3) To purchase or lease property; and

(4) To provide funds for the necessary reserves for debt and improvements.

(Code 1977, § 9-6121)

Sec. 130-78. Commercial and industrial surcharge.

(a) Established. All owners of commercial and industrial property or occupants, tenants or lessees when not owner-occupied receiving solid waste collection service from the city shall be charged and assessed a surcharge in addition to any other solid waste service charge if the amounts of these wastes are greater than normal residential amounts.

(b) Determination of amounts. The rates of surcharge established in subsection (a) of this section shall be determined annually by the commissioner and shall be based on the current cost of collection and disposal. A schedule of the surcharges shall be filed with the municipal clerk by the commissioner not later than the last Council meeting of the previous year and shall be made effective January 1 of each year.

(Code 1977, § 9-6122)

Sec. 130-79. Junked automobile removal charge.

(a) Established. Any owner of a junked automobile removed by the city shall be charged and assessed a fee for the removal of the automobile.

(b) Determination of amounts. The charge established in subsection (a) of this section shall be determined annually by the commissioner based on the current cost of removal of junked automobiles. The charge for removal of automobiles shall be filed with the municipal clerk by the commissioner not later than the last Council meeting of the previous year and shall be made effective January 1 of each year.

(Code 1977, § 9-6123)

Sec. 130-80. Charges for disposal of solid waste at city facilities.

(a) Established. Any person disposing of solid waste at one of the city's solid waste disposal facilities, except those specifically exempt by section 130-57, will be charged a fee for disposal of solid waste.

(b) Determination of amounts. The charge established in subsection (a) of this section shall be determined annually by the commissioner based on the current costs of disposal of solid waste. The schedule of charges for disposal of solid waste shall be filed with the municipal clerk by the commissioner not later than the last Council meeting of the previous year. A schedule of these charges will also be posted at the city disposal facilities and shall be made effective January 1 of each year.

(Code 1977, § 9-6124)

Sec. 130-81. Reserved.

Sec. 130-82. Fees for recycling.

(a) A fee of \$30.00 per year is established for the provision of recycling services for each single-family residence and for each unit of duplex, triplex and quadruplex residences.

(b) ~~All Citizens who have less than \$8,000 of income per year are exempted from this fee.~~

(Code 1977, § 9-7001(V))

Sec. 130-83. Billing and collection.

(a) Solid Waste charge. The assessment and collection of sanitary service charges as set forth in this division shall be made by the city. The assessment and collection of annual charges shall be made bi-monthly with the first installment due and payable on February 28. ~~The first installment shall be based on charges established for the previous year. If the charges are revised as provided for in this division, the remaining installments will be revised to reflect the revised annual rate.~~

(b) Commercial and industrial surcharge.

(1) The assessment and collection of commercial and industrial surcharges as set forth in this division shall be made by the city. The assessment and collection of annual charges shall be made bi-monthly with the first installment due and payable on February

28. ~~The first installment shall be based on charges established for the previous year. If the charges are revised as provided for in this division, the remaining installments will be revised to reflect the revised annual rate.~~

(2) The tenant occupying or the owner of the commercial and industrial property, as the case may be, shall submit to the city on forms furnished by the city an estimate of the volume of solid waste, either bags or industrial containers with cubic yard sizes, required to be removed during a one-week period and an estimate of the number of collections per week required to remove that waste. The estimates shall be submitted to the city at least 1 1/2 months prior to the bi monthly billing period. The bi-monthly surcharge shall be based on the estimate so furnished.

(3) At any one time during any two-month period, if a revised estimate is received by the city on a date which is at least 17 days before the end of the two-month period, each industrial and commercial occupant or owner shall have the right to revise the estimate previously submitted to the city so as to amend, modify or change the estimate as to the type of service, the number of pickups per week or the volume of service per pickup.

(4) Solid waste collection service by the city may be instituted at any time during the two-month period upon the industrial and commercial occupant or owner submitting to the commissioner of public works the estimate as provided in this subsection and a requested date of the commencement of the service.

(5) Upon the cessation of any industrial or commercial business, by written notice, any industrial and commercial occupant or owner may discontinue solid waste collection service by the city upon giving written notice of the date the service is to be terminated, provided that the notice is received by the bureau of solid waste not later than the 15th day of the calendar month preceding the next two-month billing period. The termination date of the service must be subsequent to the date the notice is received by the city.

(6) The commissioner of public works shall from time to time, for periods of one week or longer, audit the volume of solid waste being removed from these properties and the number of pickups required for removal and shall thereafter adjust by decreasing or increasing the amount of the surcharge for the property audited so that the surcharge shall conform and be based upon the results of the audit.

(c) Junked automobile removal charge. The assessment and collection of junked automobile removal charges as set forth in this division shall be made by the city. The assessment of these charges for the removal of these automobiles shall be made when the automobile is removed by the city. Payment shall be due and payable within 14 days of the assessment.

(d) Charges for disposal of solid waste at city facilities. The assessment and collection of charges for disposal of solid waste at city facilities as set forth in this division shall be made by the city. Payment of disposal charges shall be made by coupons purchased from the city before the waste is dumped at the disposal facility.

(Code 1977, § 9-6125)

Sec. 130-84. Rates and charges.

The following rates and charges are hereby established for solid waste collection:

(1) Residential rate: \$300 per year; \$50 per bi-monthly billing period

(2) Duplex or triplex rate: As above for each residence, ~~plus \$208.59 per year for each separate living unit in excess of one.~~

(3) Apartments, condominiums, townhouse, public housing or any other multiple-family units (apartments) rates: ~~\$1.63 per foot of paved street frontage, and to cover rubbish collection costs for unpaved frontage, \$0.67 per foot of unpaved street frontage plus one of the following charges, as appropriate.~~

a. \$208.59 per year, for each dwelling unit where the garbage from apartments, condominiums, townhomes, public housing or any other multiple-family units collected from individual containers, garbage cans or bags;

b. \$183.37 per year for each dwelling unit where the garbage from apartments, condominiums, townhomes, public housing or any other multiple-family units is collected from industrial containers;

c. Where the dwelling units or apartments are located in building structures with incinerator[s], duly installed and operating therein in accordance with all laws and regulations applicable to incinerators, depositing only incinerator refuse, and if the collection is from industrial containers grouped together, as hereinafter defined, the amount shall be \$53.82 per year for each dwelling unit; if such containers are not grouped together, then the amount shall be \$122.79 per year for each dwelling unit; for the purposes of this section, industrial containers are grouped together when such containers are located physically adjacent with only sufficient space between such containers to permit access and pickup by the city collection equipment without the movement or shifting of any of said containers in order to gain access to any other of said containers;

d. \$54.87 per year for each dwelling unit to which collection and removal services are made available to collect garbage from apartments, condominiums, townhouse, public housing or any other multiple-family units.

(4) Residential back yard removal: \$962.21 per year.

(5) Mobile home parks:

a. Individual garbage cans: \$193.35 per year.

b. Installed industrial containers: \$479.42 per year. See [subsection] (7).

(6) Commercial and industrial rates:

a. ~~\$7.60 per foot of street frontage property located in all areas receiving street cleaning at a frequency of three to six times per week;~~

b. ~~\$3.70 per foot of street frontage for property for located in all areas receiving special thoroughfare street cleaning (at least once a week) in addition to street cleaning at the same frequency as residential service (once per three weeks);~~

c. ~~\$2.89 per foot of three [street] frontage for all other commercial and industrial property receiving street cleaning at the same frequency as residential (once per three weeks);~~

d. ~~\$0.67 per foot of unpaved street frontage for commercial and industrial property abutting unpaved streets to cover rubbish collection cost.~~

(7) Public property charge for services which have been contracted: A flat charge of \$479.42 per year for each parcel in lieu of the frontage charge. For public housing charges, see subsection (3) a.--d. For government buildings garbage collection, see surcharges, subsection (6).

(8) Vacant parcels: A charge based upon street frontage to cover street cleaning and rubbish collection based on the zoning class of the property; residential to be charged as in subsection (1), apartments to be charged as in subsection (3)d., and commercial/industrial to be charged as in subsection (6).

(9) Building of public worship rate: \$300 per year, \$50 per bi-monthly billing. ~~One dollar and twenty-six cents per foot of paved street frontage to cover street cleaning and rubbish collection costs; \$0.52 per foot of unpaved street frontage for rubbish collection costs. In addition to the front footage levy listed above, there shall be a charge of \$208.59 per year for solid waste collection from individual containers, garbage cans or bags, or a charge of \$183.37 per year if the solid waste collection is from industrial containers~~

(10) [Minimum; private landfill site and transfer station operations:] A minimum of \$1.10 per ton payable to the city by all private landfill site operations and transfer station operations located within the city for refuse disposed, collected, handled, processed or reclaimed within the jurisdiction of the city. Fees must correspond with tonnage handled and will be payable quarterly and prior to issuance of annual permits.

As required by O.C.G.A. § 12-8-39, all user fees collected in accordance with this subsection shall be deposited in a local restricted account and used solely for solid waste management purposes.

(11) ~~Corner lots: Properties located on corner lots with two or more street frontages will be charged based on the footage of the street frontage which is the legal address of the property.~~

(Ord. No. 1998-10, § 2, 2-16-98; Ord. No. 2000-5, § II, 2-15-00; Ord. No. 2000-69, § 1, 12-12-00)

01-R-0347

A RESOLUTION BY *Lee Morris*

**A RESOLUTION TO REQUEST THE DEPARTMENT OF PUBLIC WORKS TO
PROCEED WITH THE IMMEDIATE EMERGENCY REPAIR OF CERTAIN
SIDEWALKS LOCATED ON HOSEA WILLIAMS BOULEVARD**

WHEREAS, It is in the public interest to expeditiously repair certain public rights-of-way, in particular sidewalks that have high pedestrian traffic; and

WHEREAS, sidewalks in these areas need to be repaired quickly so as to avoid public safety and health hazards and the liabilities associated with those hazards; and

WHEREAS, certain sidewalk areas on Hosea Williams Boulevard are dangerous due to broken or missing concrete, deep holes, etc. and often require pedestrians to walk out in the street.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA,
HEREBY RESOLVES** as follows:

Section 1. That the Department of Public Works is requested to proceed with the immediate emergency repair of several blocks of Hosea Williams Boulevard, between Second Avenue and Oakview Road.

Section 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

F-1

RESOLUTION BY
CITY UTILITIES COMMITTEE

01- 2-1957

A RESOLUTION AUTHORIZING THE MAYOR TO APPROVE AN AMENDED NOTICE TO PROCEED WITH WILLIAMS, RUSSELL & JOHNSON, INC., FOR INDIAN CREEK TRUNK SEWER DESIGN PROJECT, IN AN AMOUNT NOT TO EXCEED SIX HUNDRED NINETY THOUSAND NINE HUNDRED DOLLARS AND NO CENTS (\$690,900.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBERS: 1C33 524001 M24I012692BB - \$18,496.74; 1C37 574001 M24I012692BB - \$348,555.44; 1C39 574001 M24I012692BB - \$323,847.82.

WHEREAS, the Department of Public Works is in need of additional design services and construction support services for the Indian Creek Trunk Sewer Design Project; and

WHEREAS, the Consultant performed satisfactorily in preparing the initial design for the project and all subsequent changes thereto; and

WHEREAS, the Commissioner of the Department of Public Works and the Director of the Bureau of Purchasing and Real Estate have recommended that an amended notice to proceed be issued to Williams, Russell & Johnson, Inc. for Indian Creek Trunk Sewer Design Project in the amount of Six Hundred Ninety Thousand Nine Hundred Dollars and No Cents (\$690,900.00).

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor approve an amended notice to proceed with Williams, Russell & Johnson, Inc. for Indian Creek Trunk Sewer Design Project, in an amount not to exceed Six Hundred Ninety Thousand Nine Hundred Dollars and No Cents (\$690,900.00).

BE IT FURTHER RESOLVED, that the Director of the Bureau of Purchasing and Real Estate be and is hereby directed to prepare and execute an appropriate notice to proceed approved by the Mayor.

BE IT FURTHER RESOLVED, that this contractual agreement shall not become binding on the City, and the City shall incur no liability upon same until such contract has been executed by the Mayor and delivered to the contracting party.

BE IT FURTHER RESOLVED, that all services for said contracted work shall be charged to and paid from fund, account and center numbers: 1C33 524001 M24I012692BB - \$18,496.74; 1C37 574001 M24I012692BB - \$348,555.44; 1C39 574001 M24I012692BB - \$323,847.82.

bpre 1192001

F-2



CITY OF ATLANTA

BILL CAMPBELL
MAYOR


68 MITCHELL ST, SW, ATLANTA, GEORGIA 30335-0324
SUITE 4700, CITY HALL - SOUTH
(404) 330-6240
FAX (404) 658-7552
email: publicworks@ci.atlanta.ga.us

DEPARTMENT OF PUBLIC WORKS
Norman A. Koplon, P.E.
Interim Commissioner
David Peters, P.E.
Deputy Commissioner
Johan W. Griffin, Jr.
Deputy Commissioner
Garney Ingram-Reid
Deputy Commissioner

November 6, 2001

MEMORANDUM

To: Felicia Strong Whitaker, Director
Bureau of Purchasing and Real Estate

Fr: Ladun Esan, P.E., Infrastructure Manager
Department of Public Works 

Re: Indian Creek Sanitary Sewer Improvements
Engineering Support During Construction
Amendment No. 1 - Revised Proposal

Attached please find supporting documentation for Amendment Number for engineering support services during construction for the Indian Creek Sanitary Sewer Improvements Project.

This amendment provides for a full scope of engineering services that includes re-evaluation of the design flows, replacement of existing sewer using the open cut method while examining alternate means of construction using trench-less technologies. Pipe materials in the original design are to be changed from reinforced concrete pipe (RCP) to ductile iron pipe (DIP), with appropriate coating, or other suitable material as deemed by the City. Bedding design will also be revised to be appropriate for the type of pipe selected for this project.

The Department of Public Works has reviewed the following paperwork and finds it necessary and in the City's best interest to accept Amendment Number One and ask that the Bureau of Purchasing and Real Estate prepare appropriate legislation required for Council approval in an amount of Six Hundred Ninety Thousand Nine Hundred Dollars and No Cents (\$690,900.00).

If you need additional information or need to reach me, I can be contacted at extension 6526.

Attachment(s):

Cc: Norman Koplon, P.E., DPW
David Peters, P.E., DPW
John W. Griffin, Jr., DPW
Garney Ingram Reid, DPW
Ade Abon, P.E., DPW
Johnson Adefila, DPW
Willie Canidate, DPW
Vivian Chapman, DPW
Pamela Lewis, BPPE
Susan Bronston Sullivan, OCC
Eskender Abebe, CH2M Hill/TOC, JV
File

***PROPOSAL
Amendment
FOR***

CITY OF ATLANTA

***INDIAN CREEK DRAINAGE BASIN
SANITARY SYSTEM
AMENDMENT TO ENGINEERING SERVICES
And
SERVICES DURING CONSTRUCTION***

***WILLIAMS-RUSSELL AND JOHNSON, INC.
771 Spring Street, NW
Atlanta, GA 30308***

SEPTEMBER 2001

PROJECT BACKGROUND

In July, 1991, Williams-Russell and Johnson, Inc., (WRJ) submitted design drawings and technical specifications to the City of Atlanta for the construction of the Indian Creek Drainage Basin Sewer. The Indian Creek Drainage Basin includes the rapidly growing northeast area of Atlanta, which includes the Lenox Square Shopping Center, and many newly constructed condominiums and apartments along Lennox Road. In addition, many office and commercial building have been constructed or are planned to be constructed in this area.

The Indian Creek Drainage Basin is located in Land Lots 7, 8, 9 and 46 of the 17th District within the city limits of Atlanta. The total service area is approximately 1296 acres. Of this total acreage, 312 acres lies within Dekalb County and the rest (984) lies within the city limits of Atlanta. The Indian Creek Drainage Basin is bounded on the north by Peachtree Road, on the east by the city limits, on the west by Piedmont Road and on the south by Peachtree Creek. Peachtree and Lennox Roads are major highways, Roxboro Road is a major street running from Peachtree Road in the extreme north and intersecting with Shadey Valley Road at the south end of the study area. Lenox Square, a major shopping center is located in the northwest.

The existing sewers in the Indian Creek Drainage Basin range from a 8-inch to 24-inches, with a total length of 27,000 feet. The various sub-basins that constitute the system are:

1. Eulalia Outfall
2. Highland Trunk
3. Dale Drive Outfall
4. Roxboro and Kingsboro Outfall
5. Dale Drive Outfall

The sewer was not built at that time of the original study. The City has now decided to build the sewer, and has requested WRJ to re-evaluate and update the design drawings and specifications. This work involves the re-evaluation of the design flows, pipe and bedding materials and any issues related to erosion and sediment control must be considered.

The proposed project phases are:

4. Preliminary Report
5. Detailed Design
6. Permitting
7. Bidding and Negotiation
8. Construction

Owner: _____ Consultant: _____

Original Scope of Project:

1. The proposed sewer routing will be a part of the current rout of Eulalian Outfall and Highland Trunk, or near this rout in the Indian Creek Drainage Basin. A field survey will be performed to verify conditions in the area of the sewer.
2. The original design called for the replacement of the existing sewer using the open cut method. WRJ will examine alternate means of construction using trench-less technologies.
3. Easements previously drawn will be checked against current property owners and conflicts with new construction since the previous design was completed and will be identified as such. New easement maps will be prepared as necessary.
4. Actions will concern the projection of the future peak wastewater flow rate and sizing of the sewer lines to be constructed. WRJ will perform a new evaluation employing currently available sewer system user data, population growth estimates for the area, current zoning delineations, infiltration/inflow estimates and other data to develop an updated future peak wastewater flow rate. Of the two approaches, the second would provide a more current and thus, in theory, more accurate estimate. Based on conversations with the City of Atlanta, DPW staff, it is recommended that the 1987 design calculation and flow projections be updated.
5. Pipe materials in the original design will be changed from reinforced concrete pipe (RCP) to ductile iron pipe (DIP), with appropriate coating, or other suitable material as directed by the City. Bedding design will be revised to be appropriate for the type of pipe selected.
6. The manholes will be replaced or rebuilt with pre-cast, reinforced concrete manholes.
7. The technical specifications will be re-written. The original specifications are generally unusable because of anticipated changes in materials, pipe bedding, changes to the area, and new permitting requirements.

Owner: _____ Consultant: _____

I. Preliminary Design Phase – Develop the requirements of the project for submittal to the City of Atlanta.

- A.** Provide site reconnaissance review of the sewer design layout proposed in the 1991 documents and determine the extent to which these documents need to be revised to meet Owners requirements. This shall include staking of proposed route by survey crew.
- B.** Update existing survey to reflect current conditions. Field locate all existing manholes of the existing Highland trunk and Eulalia trunk sewers and their tributaries. Please note that DPW has indicated that it has drawings of all facilities, which have been constructed through 1999. It is uncertain if these drawings can be used. If not, there will be the need for additional survey.
- C.** The Engineer will recommend whether the new trunk sewer should be placed in the exact location of the existing trunk sewer, or whether it is more advantageous to place it along side the existing sewer. Project design will evaluate removal and enlargement of low level sewer versus upper level sewer given the changed field conditions. Enlargement of the lower level sewer may involve transfer of service lines which feed into the upper sewer. Locations of service lines can be determined from video, which DPW has. Cost and pros and cons of each option will be determined with DPW input.
- D.** Verify the hydraulic capacity of the proposed 36" diameter trunk sewer to ensure that it will be sufficient to meet the 2050-year build out needs for the drainage basin. Provide updated hydraulic analysis of system. The client requests that the analysis consider that the current subdivisions in the Buckhead area could be converted to high-rise buildings with higher densities in later years. Please note that 1991 design was developed based on maximum build-out utilizing zoning in effect in 1991. If zoning has changed, design flows will have to be redeveloped.
- E.** Attend two (2) pre-design meetings with the City to discuss design considerations.
- F.** Prepare Final Design Report for approval by COA.

Owner: _____ Consultant: _____

II. Design Phase – Revise the existing drawings and write new specifications that will meet current standards and address selected materials.

Conduct Field Survey Work for Design

1. Resurvey centerline of sewer alignment based on 1991 designs – also pick up property pins observed.
2. Set benchmarks @ 1000 feet +/- for construction (outside construction limits).
3. Locate apparent structural changes 50 feet left or right of centerline.
4. Locate visible utilities and those marked by utility owners.
5. Stake up to 1000 feet of new alignment based on possible changes.
6. Mark permanent and construction easements for easement acquisition purposes
7. Revise and update plats based on name changes, etc. Research easements as required. Obtain Easements and plats required for sewer construction. City of Atlanta will negotiate with owners of properties on COA right of way.

A. Prepare construction drawings for the length of sewer currently included in the 1991 drawings (all four phases). Conduct quality assurance/quality control review at each point in the design process.

1. Modify existing drawings to accommodate any changes to materials of construction, proposed route, easement acquisitions, or constructability issues. Wherever is applicable, the need for micro tunneling or pipe bursting versus traditional open cut construction for removal and replacement of sewers will be determined as part of the design. Recommendations will be made showing the method of pipe replacement and the location of pipes.
2. Prepare specifications for project in CSX format for using standard DPW front-end documents. WRJ will also prepare bid sheets and general and special conditions.
3. Prepare the design drawings based on the above survey and the revisions in the alignment. Develop erosion and sediment control plans of Indian Creek Basin based on current regulations as part of the design drawings.
4. Provide the variance for the 25' stream buffer and Erosion and Sedimentation Control Plan to the contractor for use in the Land Disturbance Permit application. Apply for variances as needed.
5. Submit plans and specifications to the Georgia EPD and obtain approval.
6. Provide one set of reproducible drawings and six sets of specifications to the City.
7. Additional sets of construction documents (drawings and specifications) will be provided as follows:
 - Six sets full size of blue prints
 - Six sets of half size of blue prints in book form.

Owner: _____ Consultant: _____

- B. Provide six sets of technical specifications according to new materials of construction and new standards. Specifications will be based on the latest edition of the City of Atlanta Standard Specifications (Contract documents and bid documents may be prepared by the City of Atlanta and added to the design drawings and technical specifications to create a complete bid package).
- D. Prepare final opinion of the estimated cost of construction of the project, based on the revised drawings and specifications at the completion of design.
- E. Prepare for and attend monthly (12) progress meetings with the City and their project manager during the design phase.
- F. Prepare soil and erosion control plans for the project.

Owner: _____ Consultant: _____

Additional Services Required for changes in Scope:

Additional Engineering Design Services (See Appendix A for cost)

1. Prepare rehabilitation plans and specifications to rehabilitate the Existing Highland Sewer in areas where it is to remain in-place and plans and specifications to rehabilitate the Existing Eulalia Sewer in areas where it is to remain in-place.
2. Revise plans to accommodate changes in alignment near the Cottages at Lennox as a result of negotiations with property owners and at the request of the City of Atlanta.
3. Prepare plans and specifications for connecting the proposed sewer along Ferncliff Road to the Highland Sewer west of the MARTA Rail lines.
4. Prepare plans and specifications for alignment changes along the Plantation at Lennox complex.
5. Prepare engineering calculations and design plans and specifications to accommodate 72,000 gpm of additional flow to accommodate new development in the drainage basin until all phases of the project are constructed at the request of the COA.
6. Repackage plans and specifications to meet changing bid requirements.
7. Provide Bid phase services. The engineer will:
 - a. Provide bidding assistance
 - b. Attend Prebid conferences
 - c. Respond and issue addenda Clarify and modify the contract documents when necessary and incorporate addenda into documents
 - d. Assist city with opening bids, preparing bid tabulations, evaluating bids and make recommendations for award of contract.
 - e. Conduct pre-construction meeting

Surveying Services (See Appendix B for cost)

8. Provide additional survey for route along Ferncliff Road and for the connection of this area to the Highland sewer west of the MARTA Rail Lines as requested by City of Atlanta in upper reaches in the Highland Sewer.
9. Set Benchmarks; locate utilities, stake new alignment at 100 ft intervals, mark permanent and construction easements.
10. Prepare plats and drawings to obtain easements.
11. Re-staking and survey changes as a result of changes to alignment requested by COA after meetings with homeowners

Geotechnical Services (See Appendix C for cost)

12. Provide additional geotechnical services for route along Ferncliff Road and for the connection of this area to the Highland sewer west of the MARTA Rail Lines as requested by City of Atlanta in upper reaches in the Highland Sewer.
13. Provide rock borings to refusal at locations along sewer as determined by engineer and city of Atlanta.

Owner: _____ Consultant: _____

Landscape and Tree Protection / Arborist Services (See Appendix D for cost)

14. Inventory and Analysis

Program Review

Consultant shall meet with the City Arborist, Engineer and Owner to review and discuss in detail the requirements of the City of Atlanta Tree Preservation Ordinance and Administrative Guidelines.

Site Inspection and Analysis

Consultant shall walk and inspect the site to become familiar with existing site conditions such as existing trees, slopes, and other factors that may influence tree preservation calculations and tree replacement locations. The Consultant shall also discuss with city authorities applicable site issues and requirements.

15. Tree Preservation and Replacement Plan

The Consultant shall prepare a set of drawings entitled "Tree Preservation and Replacement Plan" based upon the tree survey and findings during site survey and inspections. The plans shall incorporate comments from the city of Atlanta Arborists, the owner, and the Engineer. The plans shall be prepared complete to meet all permit requirements by the governing authorities. The consultant shall be responsible for providing the required specifications related to the performance of work identified on the Tree Preservation and Replacement Plans. Specifications shall be provided in electronic format using Microsoft Word.

Based on the tree density factor, no less than thirty units per acre, the tree replacement plan will show all locations of replacement tree, calculations, plant list, and planting details.

WRJ's scope of work includes the cost for attending bi-monthly progress meetings over the duration of the delivery of his work

Upon completion of the tree replacement plan, the Consultant will prepare a cost estimate for all tree planting.

Additional Services Required for changes in Scope:

Construction Management Services (See Appendix E for cost)

16. Provide engineering and construction management services over the 15-month duration of project construction.

17. The engineer project representative will coordinate each of the various project phases and shall:

- a. Assist with conducting and recording job meetings,
- b. Onsite inspection
- c. Assist with negotiation of change orders with the Contractor
- d. Provide field observation for conformance with project plans and specifications
- e. Conduct final Inspections and Closeout reviews.
- f. Provide as built drawings
- g. Provide services as needed

Owner: _____ Consultant: _____

APPENDIX A

Indian Creek Additional Engineering Design Services Budget Estimate

September 2001

Original budget for engineering services for this project was \$220,000. One hundred ten thousand (\$110,000) was allocated for segments 1 and 2, and \$110,000 for segments 3 and 4. As result of changes in scope, additions and changes resulting from citizen participation meetings and negotiations with homeowners by the city of Atlanta, additional engineering services totaling \$ \$123,900.00 was performed on this project or is work in progress. This work is being done to expedite the project to meet Consent Order guidelines that state that construction on this project should start by December 21, 2001.

The budget breakdown of the additional engineering services is as follows:

Prepare Rehabilitation Plans and Specs (Segments 1,2,3 &4)

At the city's request, WRJ prepared rehabilitation plans and specifications to rehabilitate the Existing Highland Sewer in areas where it is to remain in-place and plans and specifications to rehabilitate the Existing Eulogia Sewer in areas where it is to remain in-place. The original contract did not call for this work. WRJ's initial scope of work included the design of the trunk sewer and appurtenances only. The rehabilitation plans required the generation of 9 new plan sheets and additional field surveying to get data on sewers outside the main trunk line. Plans for Segments 1 and 2 are complete. Plans for segments 3 and 4 are under design.

Category	Hours	Cost
Engineer	240 @ \$ 95/hr.	\$ 22,800
CADD Technician	320 @ \$ 75/ hr.	\$ 24,000
Manager	40 @ \$150 / hr	\$ 6,000
Total		\$ 52,800

Revise plans to accommodate changes in Alignment

Revise plans to accommodate changes in alignment near the Cottages at Lennox, 2901 Lennox, and at Plantation at Lennox (twice) as a result of negotiations with property owners and at the request of the City of Atlanta.

Category	Hours	Cost
Engineer	180 @ \$ 95/hr.	\$17,100
CADD Technician	80 @ \$ 75/ hr.	\$ 6,000
Manager	8 @ \$150 / hr	\$ 1,200
Total		\$ 24,300

Owner: _____ Consultant: _____

Prepare Rehabilitation Plans and Specs

Prepare plans and specifications for connecting the proposed sewer along Ferncliff Road to the Highland Sewer west of the MARTA Rail lines. Includes Engineer time for additional railroad permit. This area was outside the scope of the original project. It was included at the request of the city (John Griffin and Heinz Brodheim))

Category	Hours	Cost
Engineer	120 @ \$ 95/hr.	\$11,400
CADD Technician	80 @ \$ 75/ hr.\$	\$6,000
Manager	0 @ \$150 / hr	0
Total		\$ 17,400

Hydraulic Evaluation of Developer and City requested flows

Prepare engineering calculations and modify design plans and specifications to accommodate 72,000 gpm of additional flow to accommodate new development in the drainage basin until all phases of the project are constructed at the request of the COA. Evaluate hydraulic impact of proposed development north of Lennox Road (URS is design engineer for developer)

Category	Hours	Cost
Engineer	80 @ \$ 95/hr.	\$7,600
CADD Technician	0 @ \$ 75/ hr.	\$ 0
Manager	4 @ \$150 / hr	\$ 600
Total		\$ 8,200

Repackaging of Specifications and Allowance for Future Change

Multiple Repackaging of specifications to meet changing bid requirements. Additional Allowance included for future changes.

Category	Hours	Cost
Engineer	160 @ \$ 95/hr.	\$ 15,200
CADD Technician	240 @ \$ 75/ hr.	\$ 0
Manager	40 @ \$150 / hr	\$ 6,000
Total		\$21,200

TOTAL ADDITIONAL ENGINEERING SERVICES**\$ 123,900**

Owner: _____ Consultant: _____

APPENDIX B

INDIAN CREEK SEWER SURVEY BUDGET ESTIMATES September 2001

The original survey budget for this project was \$ 40,000.00. As result of changes in scope, additions and changes resulting from citizen participation meetings and negotiations with homeowners by the city of Atlanta, additional surveying services totaling \$ \$52,900 were performed on this project or is work in progress. This work is being done to expedite the project to meet Consent Order guidelines that state that construction on this project should start by December 21, 2001.

Provide Survey Support for Preparation of Rehabilitation Plans (Segments 1,2,3 &4)

At the city's request, additional field survey was required to prepare plans and specifications to rehabilitate the Existing Highland Sewer in areas where it is to remain in-place and plans and specifications to rehabilitate the Existing Eulalia Sewer in areas where it is to remain in-place. The original contract did not call for this work. The initial scope instructed the surveyor to survey the new sewer only. The rehabilitation plans required the generation of 9 new plan sheets and additional field surveying to get data on sewers that were outside the mapping of that done for the main trunk line. Plans for Segments 1 and 2 are complete. Plans for segments 3 and 4 are under design.

Category	Hours	Cost
Registered Land Surveyor	40 @ 115 per hour	\$ 4,600
2 person survey Crew	180 @ \$ 95 / per hr.	\$ 17,100
Total		\$ 21,700

Provide Survey Support for Plan Revisions Caused by changes in Alignment

Provide surveying to support plan revisions to accommodate changes in alignment near the Cottages at Lennox, 2901 Lennox, and at Plantation at Lennox (twice) as a result of negotiations with property owners and at the request of the City of Atlanta, resulted in additional field survey work. Includes Preparation of plat revisions caused by changes.

Category	Hours	Cost
Registered Land Surveyor	8 @ 115 per hour	\$ 920
2 person survey Crew	80 @ \$ 95 / per hr.	\$ 7,600
Total		\$ 8,520

Owner: _____ Consultant: _____

Provide Additional Survey along Ferncliff Road

Provide additional survey to support preparation of plans and specifications for connecting the proposed sewer along Ferncliff Road to the Highland Sewer west of the MARTA Rail lines. Includes Engineer time for additional railroad permit. This area was outside the scope of the original project. It was included at the request of the city (John Griffin and Heinz Brodheim))
Work included:

1. Survey centerline of sewer alignment along Ferncliff Road and the connection with the Highland Sewer West of the MARTA
2. also pick up property pins observed.
3. Set BM @ 1000 +/- for construction (outside construction limits).
4. Locate any apparent structural changes 50 feet left or right of centerline.
5. Locate visible utilities and those marked by utility owners.

Category	Hours	Cost
Registered Land Surveyor	32 @ 115 per hour	\$ 3,680
2 person survey Crew	240 @ \$ 95 / per hr.	\$ 22,800
Total		\$ 26,480

TOTAL ADDITIONAL SURVRYING SERVICES**\$ 56,700**

Owner:_____ Consultant:_____

APPENDIX C

INDIAN CREEK SEWER GEOTECHNICAL BUDGET ESTIMATES September 2001

ITEM	Quantity	Unit Price	Cost
Mobilization			\$ 300
Soil Test Borings	185 ft	\$ 15 / ft	\$ 2,775
Bulk Samples for Lab Analyses	3 samples	\$ 25.00 / ft	\$ 75.
Sieve Analyses	3 samples	\$ 90 / sample	\$ 270
Atterberg Limits Analyses	3 samples	\$ 50 / sample	\$ 150
Soil Classification			\$ 500
Geotechnical Engineer	40 hours	\$ 60 / hour	\$ 2,400
Technician	30 hours	\$ 45 / hour	\$ 2,025
Labor (Traffic Control)	32 hours	\$ 15 / hour	\$ 960
Geologist	10 hours	\$ 90 / hour	\$ 900
Reports	8 hours	\$ 28.50 / hour	\$ 228
Additional Boring Allowance			\$ 14,417
		TOTAL	\$ 25,000.00

Provide additional geotechnical services for route along Ferncliff Road and for the connection of this area to the Highland sewer west of the MARTA Rail Lines as requested by City of Atlanta in upper reaches in the Highland Sewer.

Provide rock borings at locations along sewer as determined by engineer and city of Atlanta.

Owner: _____ Consultant: _____

APPENDIX D

INDIAN CREEK SEWER

LANDSCAPE AND TREE PROTECTION BUDGET ESTIMATES

September 2001

The services to be performed by the Consultant shall include all work necessary to provide Williams Russell and Johnson, Inc., with support during the performance of this Contract. The Consultant's scope is related to services provided by the landscape architect as required by this contract. It shall include the cost for providing a set of complete plans and the required specification sections needed for permitting of the tree preservation and protection plans. The Landscape architect's scope shall include the cost for attending bi-monthly progress meetings over the duration of the delivery of his work.

Landscape services

\$ 28,745,

Landscaping and tree protection services were not part of the original contract. At the city's request, we secured the services of a landscape architect to address landscaping issues resulting from the design. To date we have received invoices totaling \$ 28,745 that have been paid out of our design budget. The estimate for Phase 3 & 4 is \$37,000.

This fee shall be inclusive of all meeting times.

Total fee for this work shall be:

\$28,000.00

Phase 1 & 2

\$37,000.00

Phase 3 & 4

\$5,000.00

Post Construction Services

\$70,000.00

Total Landscape & Tree Protection Services All Phases

Owner: _____ Consultant: _____

APPENDIX E

Indian Creek Construction Management Services Budget Estimates September 2001

Engineering services during construction were never a part of the original design budget. These services include 1) a full time resident in the field during the entire construction process, 2) an additional inspector to cover a three-month overlap period when both phases of work are under construction and proceeding simultaneously. Cost breakdown :for this work is estimated as follows

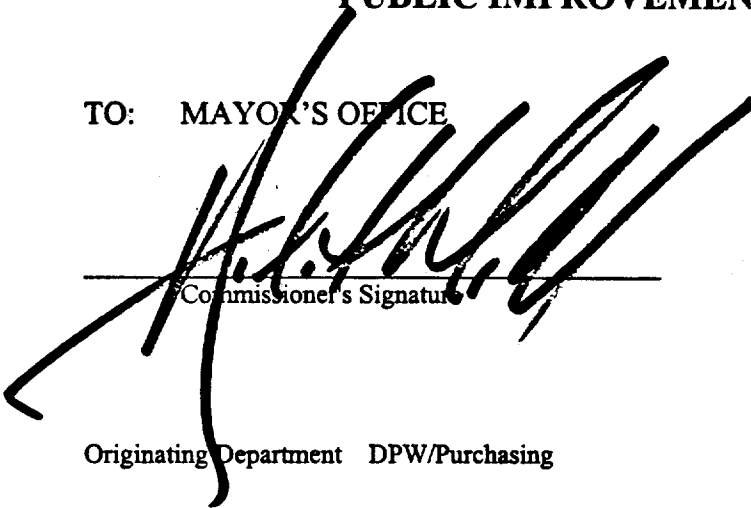
1 Resident Engineer / Inspector 2,580 hours	@ \$95.00	=	\$ 245,100
(Review RFI's, submittals, onsite inspection, oversee work of arborist, surveyor, and geo-technical, approve field design changes, project meetings)			
1 Office Engineer – 960 hours	@ \$95.00	=	\$ 91,200
(Review RFI's, submittals, attend public meetings, manage work of arborist, surveyor, and geo-technical, approve field design changes, project meetings)			
1 Manager– 160 hours	@ \$150.00	=	\$ 24,000
(Review Change Orders, Public Meetings, QC)			
1 CADD Technician – 200 hours	@ \$75.00	=	\$ 15,000
As Built Drawings			
Miscellaneous			\$ 20,000
(As needed services)			
SUBTOTAL			\$ 395,300

Owner: _____ Consultant: _____

**TRANSMITTAL FORM FOR LEGISLATION
PUBLIC IMPROVEMENT PROGRAM**

TO: MAYOR'S OFFICE

GREG PRIDGEON



Commissioner's Signature



Director's Signature

Originating Department DPW/Purchasing

Contact Person: Pamela Lewis x 6379
Marie Pope 853-7503

Committee(s) of Purview City Utilities
Committee

Council Deadline November 12, 2001

Committee Meeting Dates(s) November 27, 2001

Full Council Date December 3, 2001

CAPTION:

TO AUTHORIZE THE MAYOR TO APPROVE AN AMENDED NOTICE TO PROCEED WITH WILLIAMS, RUSSELL & JOHNSON, INC., FOR INDIAN CREEK TRUNK SEWER DESIGN PROJECT, IN AN AMOUNT NOT TO EXCEED SIX HUNDRED NINETY THOUSAND NINE HUNDRED DOLLARS AND NO CENTS (\$690,900.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM THE FOLLOWING FUND, ACCOUNT AND CENTER NUMBERS: 1C33 524001 M24I012692BB - \$18,496.74; 1C37 574001 M24I012692BB - \$348,555.44; 1C39 574001 M24I012692BB - \$323,847.82.

FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by Mayor's Office: _____

(date)

Reviewed by: _____

initials)

Submitted to Council: _____

(date)

Action by Committee:

____ Approved

____ Adverse

____ Held

____ Amended

____ Substitute

____ Referred

____ Other

**BUREAU OF PURCHASING AND REAL ESTATE
LEGISLATION SUMMARY**

TO: CITY UTILITIES COMMITTEE

CAPTION: A resolution authorizing the Mayor to approve an amended notice to proceed with Williams, Russell & Johnson, Inc., for Indian Creek Trunk Sewer Design Project, in an amount not to exceed Six Hundred Ninety Thousand Nine Hundred Dollars and No Cents (\$690,900.00). All contracted work shall be charged to and paid from fund, account, and center numbers: 1C33 524001 M24I012692BB - \$18,496.74; 1C37 574001 M24I012692BB - \$348,555.44; 1C39 574001 M24I012692BB - \$323,847.82

REQUESTING DEPARTMENT: Department of Public Works

CONTRACT TYPE: Design Services

SOURCE SELECTION: N/A

BID OPENING: N/A

INVITATIONS ISSUED: N/A

PROPOSALS RECEIVED: N/A

BACKGROUND: Williams, Russell & Johnson, Inc. performed design services for the Indian Creek Trunk Sewer Design project. An amended notice to proceed is necessary to provide for additional design services due to scope changes and engineering support services during the construction of the project.

SOURCE OF FUNDING: BOND PROGRAM

EVALUATION TEAM COMPOSITION: DPW, BPRE

RESOLUTION BY
CITY UTILITIES COMMITTEE

01- *2* -1958

A RESOLUTION AUTHORIZING THE MAYOR TO APPROVE AN AMENDED NOTICE TO PROCEED FOR CH2M HILL/TOC, INC., A JOINT VENTURE, FOR INFRASTRUCTURE SEWER CAPITAL PROJECTS, FOR FC-6710-96A, ANNUAL ARCHITECTURAL AND ENGINEERING SERVICES, IN AN AMOUNT NOT TO ONE MILLION EIGHT HUNDRED EIGHTY NINE THOUSAND ONE HUNDRED FORTY SEVEN DOLLARS AND NO CENTS (\$1,889,147.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND, ACCOUNT AND CENTER NUMBERS: 1C33 574001 M24I014892BB; 1C33 524001 M24I014892BB; 1C33 524001 M22F016192BA; 1C37 574001 M22F016192BA; 1C39 574001 M24I014892BB; 1C39 574001 M22F016192BA.

WHEREAS, the Department of Public Works is in need of professional services for the Infrastructure Sewer Capital Projects Program for an additional twelve (12) month period; and

WHEREAS, the Consultant has previously performed said services satisfactorily; and

WHEREAS, the Commissioner of the Department of Public Works and the Director of the Bureau of Purchasing and Real Estate have recommended that an amended notice to proceed be issued to CH2M Hill/TOC, Inc., A Joint Venture, for Infrastructure Sewer Capital Projects for FC-6710-97A, Annual Architectural and Engineering Services, in the amount of One Million Eight Hundred Eighty Nine Thousand One Hundred Forty Seven Dollars and No Cents (\$1,889,147.00).

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor approve an amended notice to proceed with CH2M Hill/TOC, Inc., for Professional Services for Infrastructure Sewer Capital Projects, for FC-6710-97, Annual Architectural and Engineering Services in an amount not to exceed One Million Eight Hundred Eighty Nine Thousand One Hundred Forty Seven Dollars and No Cents (1,889,147.00).

BE IT FURTHER RESOLVED, that the Director of the Bureau of Purchasing and Real Estate be and is hereby directed to prepare and execute an appropriate notice to proceed approved by the Mayor.

BE IT FURTHER RESOLVED, that this contractual agreement shall not become binding on the City, and the City shall incur no liability upon same until such contract has been executed by the Mayor and delivered to the contracting party.

BE IT FURTHER RESOLVED, that all services for said contracted work shall be charged to and paid from fund, account and center numbers: 1C33 574001 M24I014892BB; 1C33 524001 M24I014892BB; 1C33 524001 M22F016192BA; 1C37 574001 M22F016192BA; 1C39 574001 M24I014892BB; 1C39 574001 M22F016192BA.

bpre 11142001



BILL CAMPBELL
MAYOR

CITY OF ATLANTA
68 MITCHELL ST, SW, ATLANTA, GEORGIA 30335-0324
SUITE 4700, CITY HALL - SOUTH
(404) 330-6240
FAX (404) 658-7552
email: publicworks@ci.atlanta.ga.us

DEPARTMENT OF PUBLIC WORKS
Norman A. Koplon, P.E.
Interim Commissioner
David Peters, P.E.
Deputy Commissioner
Johan W. Griffin, Jr.
Deputy Commissioner
Garney Ingram-Reid
Deputy Commissioner

October 29, 2001

MEMORANDUM

To: Felicia Strong-Whitaker, Director
Bureau of Purchasing and Real Estate

Fr: Ladun Esan, P.E., Infrastructure Manager
Department of Public Works 

RE: CH2M Hill/TOC, Inc., JV, Professional Services for Infrastructure Sewer Capital Projects
Annual Contract for Architectural and Engineering Services
AMENDMENT NO. 2 - FC-6710-96A

Attached please find the proposal from CH2M Hill/TOC, Inc., JV to provide costs for a twelve (12) month extension of professional services for the Infrastructure Sewer Capital Projects.

In addition to professional costs, the proposal consists of projected fees for Right of Way Acquisition, Public Involvement Initiative, Interim coordination for roads, streets, bridges and storm water programs to include MIS and program coordination; and the cleaning services for the program team office space.

The Department of Public Works has reviewed the proposal and finds it acceptable. We recommend that an Amendment No. 2 to the original contract be approved in an amount not to exceed One Million Eight Hundred Eighty Nine Thousand One Hundred Forty Seven Dollars and No Cents (\$1,889,147.00). We ask that the Bureau of Purchasing and Real Estate prepare appropriate legislation for Council approval.

If you have any questions or comments, I may be reached at extension 6526.

Attachment(s):

Cc: Norman Koplon, P.E., DPW
David Peters, P.E., DPW
Ade Abon, P.E., DPW
Willie Canidate, DPW
Vivian Chapman, DPW
Pamela Lewis, BPPE
Susan Bronston Sullivan, OCC
Bruce Bell, OCC
Eskender Abebe, CH2M Hill/TOC, JV
File



CH2MHILL

TOC, INC.

a joint venture

**115 Perimeter Center Place, NE, Suite 700
Atlanta, Georgia 30346-1278
770-604-9095
fax 770-604-9183**

**133 Carnegie Way, Suite 600
Atlanta, Georgia 30303
404-525-1370
fax 404-525-1376**

August 21, 2001

Ladun Esan, P.E.
Infrastructure Planning Group, Program Director
City of Atlanta, Department of Public Works
675 Ponce De Leon Avenue, Suite 4300
Atlanta, GA 30308

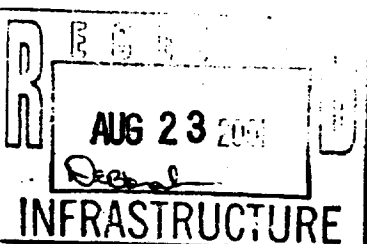
**Re: Annual Contract for Architectural and Engineering Services, FC-6710-96A
CH2M Hill/TOC, Inc, A Joint Venture
Capital Improvement Program Management
Request for Contract Amendment No. 2**

Mr. Esan,

This request for amendment is to provide professional services to the City of Atlanta for the completion of sanitary sewer and other infrastructure projects currently under construction or in the design phase.

The table below shows the summary of the cost proposal and Attachment A details the cost and hour breakdown for your review and approval.

CH2M Hill/TOC	\$ 1,292,032
Smith Real Estate Services	\$ 456,092
Paragon Productions	\$ 28,434
E.R. Mitchell	\$ 74,400
Sub-consultant Total	\$ 568,681
Sub-consultant fees at 5%	\$ 28,434
Total Amendment No. 2	\$ 1,889,147





CH2MHILL

TOC, INC.

a joint venture

**115 Perimeter Center Place, NE, Suite 700
Atlanta, Georgia 30346-1278
770-604-9095
fax 770-604-9183**

**133 Carnegie Way, Suite 600
Atlanta, Georgia 30303
404-525-1370
fax 404-525-1376**

July 27, 2001

Ladun Esan, P.E.
Infrastructure Planning Group, Program Director
City of Atlanta, Department of Public Works
675 Ponce De Leon Avenue, Suite 4300
Atlanta, GA 30308

**Re: Annual Contract for Architectural and Engineering Services, FC-6710-96A
CH2M Hill/TOC, Inc, A Joint Venture
Capital Improvement Program Management
Request for Contract Amendment No. 2**

Mr. Esan,

This Contract Amendment request is to provide program management services to the City of Atlanta for the Storm Drainage and Erosion & Flood Control projects (Part A) and Bridges and Streets projects (Part B).

As Program Managers for the Sanitary Sewer Improvement Projects, the joint venture of CH2M Hill/TOC, Inc. has worked closely with City engineers and contractors and is familiar with City of Atlanta's standard procedure.

Per our previous meetings, this additional work will be for a period of 12-months starting from July 1, 2001. Through our existing contract, we have provided an Administrative Assistant for the Bridges and Streets program and two Inspectors for the Storm Drainage and Erosion & Flood Control program. A detailed description of the services to be provided for the two new programs is in Attachment A.

CH2M Hill/TOC will also provide one full-time Systems Administrator to maintain and manage the computer network at City Hall East and to support individual workstations. Beverly Hargrove, the current Systems Manager will remain a subcontractor to CH2M Hill/TOC, Inc. on a part time basis. He will provide support to maintain custom written software and assist in program wide report generation.

Smith Real Estate Services and Paragon Productions have overrun the estimated budget in Contract Amendment 1 because of the additions of Veterans Hospital Trunk Sewer and Indian Creek Sanitary Sewer Improvement. The City also requested additional services on existing Capital Improvement projects, such as the Virginia Place access road and the Tenth Ward Sanitary Sewer realignment.

Smith Real Estate Services, as a subcontractor to CH2M Hill/TOC, will secure and maintain properties acquired by the City of Atlanta for the Roxboro Road widening project. A total of 8 properties will be boarded, locks changed, trash cleaned up and a one-time landscaping done. A bi-monthly landscaping and lawn care at \$150.00 per visit and a weekly exterior inspection at \$ 50/ per week will be provided by SRES. The City Project Engineer will approve all maintenance and inspection report. This will be done for a six-month period or the start of construction, whichever comes first.

Proposed fees and estimated labor-hours for the additional services are included in Attachment C.

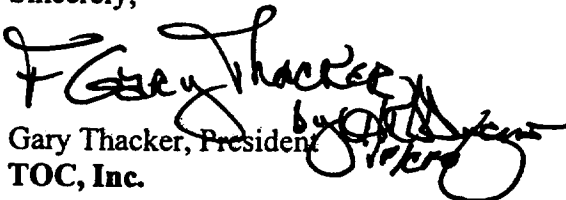
Proposed fees and estimated labor-hours for these services are included in Attachment B, tables 1 thru 5. The hourly billing rates used in this proposal are consistent with our contract FC-6710-96A.

Total Amount

CH2M Hill/TOC	\$ 1,292,032
Smith Real Estate Services	\$ 456,092 ✓
Paragon Productions	\$ 28,434
E.R. Mitchell	\$ 74,400
Sub-consultant Total	\$ 568,681
Sub-consultant fees at 5%	\$ 28,434
Total Amendment No. 2	\$ 1,889,147

The total amount of this amendment is One Million Eight Hundred Eighty Nine Thousand One Hundred Forty Seven Dollars (1,889,147.00). If you have any questions, please call Eskender Abebe at (404) 853-7517 or myself at (404) 525-1370.

Sincerely,


Gary Thacker, President
TOC, Inc.

Cc: Ade Abon, P.E., COA Harry Myers, TOC Angela Roberts, P.E., CH2M
Eskender Abebe, P.E., TOC Jim Wilmouth, SRES Lou Walker, Paragon

Attachment A

Part A – Storm Drainage and Erosion & Flood Control

The City of Atlanta currently has numerous ongoing storm drainage and erosion & flood control projects. These projects are divided into two groups, the first group includes emergency projects that are required to alleviate existing flooding problems and the second group includes design and bid projects to prevent further stream bank erosion. The City uses the services of its annual contractor for the projects in the first group and bids and awards projects in the second group.

CH2M Hill/TOC proposes to provide four full-time Inspectors and a Project Engineer for this Program.

Project Team

Inspectors

The full-time inspectors will provide services for the full duration of this contract modification (12-months) at a billing rate of \$ 85/hour. Inspection services include:

- a. Maintain a daily construction report
- b. Review Contractor's daily written reports of work performed
- c. Coordinate material testing with annual contractor
- d. Update construction plans as necessary for design projects
- e. Monitor the contractor for the quality of work
- f. Inform City and Design Engineers of any deviation from the contract documents and submittals approved by the Engineer
- g. Verify progress payment estimate application submitted by the Contractor by actual measurement or from the daily construction report
- h. Maintain a daily complaints reports and inform City Engineer
- i. Inform City Engineer of any pending neighborhood issues, such as construction noise, traffic control, and work area safety and erosion control
- j. Take construction progress pictures
- k. Attend progress meetings

Part B - Bridges and Streets Improvement Program

The City of Atlanta currently has a total of six bridge and streets projects either in final design or construction phase. CH2M Hill/TOC proposes to provide one full-time Inspector/Engineer and an Administrative Assistant.

Project Team

Program Manager

The Program Manager will oversee the overall performance of the project team. The PM will perform work on an as needed basis, not to exceed 100 hours for the duration of this modification. The billing rate for the PM will be \$104/hour.

The services provided by the PM include:

- a. Monitor the schedule and budget of each project
- b. Review final bid documents and plans
- c. Review contractor and consultant invoices
- d. Assist the City in the preparation of change orders if necessary
- e. Inform the City of any major issues that could potentially impact the schedule and budget of the project

Engineer/Inspector

The full-time Engineer/Inspector will provide services for the full duration of this contract modification (12-months) at a billing rate of \$ 85/hour.

- I. Construction Inspection Services.
 - a. Maintain a daily construction report
 - b. Review Contractor's daily written reports of work performed
 - c. Coordinate material testing with annual contractor
 - d. Update construction plans to show as-built conditions
 - e. Monitor the contractor for the quality of work
 - f. Inform City and Design Engineers of any deviation from the contract documents and submittals approved by the Engineer
 - g. Verify progress payment estimate application submitted by the Contractor by actual measurement or from the daily construction report
 - h. Inform City Engineer of any pending neighborhood issues, such as construction noise, traffic control, and work area safety
 - i. Attend progress meetings
- II. Coordinate the right of way acquisition and plat preparation with Smith Real Estate Services and Design Engineer.
- III. Review construction documents and plans for compliance with City of Atlanta standards prior to bidding.

Administrative Assistant

The Administrative Assistant will work as an office support for the City Engineer and Inspectors for the full duration of this contract modification (12-months) at a billing rate of \$47/hour. Administrative duties include:

- a. Preparing letters, memos, and correspondences as directed by Engineer.
- b. Maintaining a proper document control system for electronic and hard copies.
- c. Answering phones, attending meetings and preparing minutes.

Attachment B

Storm Drainage and Erosion & Flood Control Program

Table 1.0	Billing Rate	Est. Hours	Total Fees
Program Manager	\$ 104.00	100	\$ 10,400
Inspectors (4) ¹	\$ 85.00	8,320	\$ 707,200
Document Control Clerk	\$ 47.00	2,080	\$ 97,760
Direct Project Expenses ²			\$ 6,912
Total Amount			\$ 822,272

Bridges and Streets Improvement Program

Table 2.0	Billing Rate	Est. Hours	Total Fees
Program Manager	\$ 104.00	100	\$ 10,400
Engineer/Inspector	\$ 85.00	2,080	\$ 176,800
Admin. Assistant	\$ 47.00	2,080	\$ 97,760
Direct Project Expenses			\$ 2,000
Total Amount			\$ 286,960

Systems Administration at City Hall East

Table 3.0	Billing Rate	Est. Hours	Total Fees
Systems Manager	\$ 85.00	2,080	\$ 176,800
Supplies ²			\$ 6,000
Sub-total			\$ 182,800
E.R. Mitchell	\$ 93.00	800	\$ 74,400
Total Amount			\$ 257,200

1. Four Inspectors at 2,080 hours each for 12 months.
2. Direct Project Expenses include mileage, parking, reproduction and equipments such as camera, films, and telephones. Mileage for Table 1.0 is estimated to be 20 miles per Inspector per day at \$ 0.32 per mile.
3. Supplies for System Administration include computer software and hardware.

Attachment C

Smith Real Estate Services

Table 4.0	Smith Real Estate Easement Acquisition		
2000	Budgeted	Billed	Adjustment
October	\$ 40,000	\$ 40,078	\$ (78)
November	\$ 60,000	\$ 57,861	\$ (2,139)
December	\$ 60,000	\$ 36,142	\$ 23,858
2001			
January	\$ 100,000	\$ 80,622	\$ 19,378
February	\$ 100,000	\$ 88,762	\$ 11,238
March	\$ 100,000	\$ 126,233	\$ (26,233)
April	\$ 100,000	\$ 177,831	\$ (77,831)
May	\$ 100,000	\$ 124,086	\$ (24,086)
June	\$ 100,000	\$ 101,177	\$ (1,177)
July	\$ 60,000	\$ 60,000	-
August	\$ 60,000	\$ 60,000	-
September	\$ 60,000	\$ 60,000	-
Total Budget Overrun			\$ 112,792

Table 4.1	PM¹	Closings²	Direct Cost³
Roxboro Road Widening, No. 9219 (2)	\$ 6,000	\$ 3,650	\$ 1,650
Roxboro Road Widening, No. 9219 (4)	\$ 16,000	\$ 9,200	\$ 4,000
Fairburn Road at CSX	\$ 6,000	\$ 3,650	\$ 1,650
Campbelton Road, Phase II	\$ 2,150	\$ 1,850	-
Campbelton Road, Phase IIA	\$ 7,200	\$ 4,600	\$ 15,600
M.L.K, Phase 2	\$ 48,600	\$ 36,000	\$ 132,300
Sub-total Amount	\$ 85,950	\$ 58,950	\$ 155,200
Total Additional Services			\$ 300,100

Table 4.2	PM	Boarding	Maintenance
Property Maintenance, 8 Houses	\$ 4,800	\$ 22,400	\$ 16,000
Total Additional Services			\$ 43,200

1. Direct Cost includes title work, appraisals and negotiations.
2. Closing Cost includes attorney fees, title insurance, recording fees, pre and post closing update fees.
3. Roxboro Road widening City owned property maintenance is for 6 months duration with a one-time fee of \$ 2,800 per house for securing the property.

Paragon Productions

Table 5.0	Paragon Productions Public Involvement		
2000	Budgeted	Billed	Adjustment
October	\$ 15,000	\$17,803	\$ (2,803)
November	\$ 15,000	\$ 13,187	\$ 1,813
December	\$ 15,000	-	\$ 15,000
2001			
January	\$ 15,000	\$ 20,125	\$ (5,125)
February	\$ 15,000	\$ 20,829	\$ (5,829)
March	\$ 15,000	\$ 28,623	\$ (13,623)
April	\$ 12,000	\$ 15,743	\$ (3,743)
May	\$ 12,000	\$ 15,321	\$ (3,321)
June	\$ 10,000	\$ 17,558	\$ (7,558)
July	\$ 10,000	\$ 15,000 ¹	\$ (5,000)
August	\$ 8,000	\$ 12,000 ¹	\$ (4,000)
September	\$ 8,000	\$ 12,000 ¹	\$ (4,000)
Total Budget Overrun			\$ (38,189)

1. Estimated budget for the remainder of Amendment no. 1

**TRANSMITTAL FORM FOR LEGISLATION
PUBLIC IMPROVEMENT PROGRAM**

TO: MAYOR'S OFFICE

GREG PRIDGEON



Commissioner's Signature



Director's Signature

Originating Department DPW/Purchasing

Contact Person: Pamela Lewis x 6379
Marie Pope 853-7503

Committee(s) of Purview City Utilities
Committee

Council Deadline November 12, 2001

Committee Meeting Dates(s) November 27, 2001

Full Council Date December 3, 2001

CAPTION:

TO AUTHORIZE THE MAYOR TO APPROVE AN AMENDED NOTICE TO PROCEED FOR CH2M HILL/TOC, INC., A JOINT VENTURE, FOR INFRASTRUCTURE SEWER CAPITAL PROJECTS, FC-6710-96A, ANNUAL CONTRACT FOR ARCHITECTURAL AND ENGINEERING SERVICES, IN AN AMOUNT NOT TO EXCEED ONE MILLION EIGHT HUNDRED EIGHTY NINE THOUSAND ONE HUNDRED FORTY SEVEN DOLLARS AND NO CENTS (\$1,889,147.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM THE FOLLOWING FUND, ACCOUNT AND CENTER NUMBERS: 1C33 574001 M24I014892BB; 1C33 524001 M24I014892BB; 1C33 524001 M22F016192BA; 1C33 574001 M22F016192BA; 1C39 574001 M24I014892BB; 1C39 574001 M22F016192BA.

FINANCIAL IMPACT (if any)

Mayor's Staff Only

+++++

Received by Mayor's Office: _____

(date)

Reviewed by: _____

initials)

Submitted to Council: _____

(date)

Action by Committee:

____ Approved ____ Adverse ____ Held ____ Amended
____ Substitute ____ Referred ____ Other

**BUREAU OF PURCHASING AND REAL ESTATE
LEGISLATION SUMMARY**

TO: CITY UTILITIES COMMITTEE

CAPTION: A resolution authorizing the Mayor to approve an amended notice to proceed for CH2M Hill/TOC, Inc., A Joint Venture, for Infrastructure Sewer Capital Projects, FC-6710-96A, Annual Contract for Architectural and Engineering Services in an amount not to exceed One Million Eight Hundred Eighty Nine Thousand One Hundred Forty Seven Dollars and No Cents (\$1,889,147.00). All contracted work shall be charged to and paid from fund, account, and center numbers: 1C33 574001 M24I014892BB; 1C33 524001 M24I014892BB; 1C33 524001 M22F016192BA; 1C37 574001 M22F016192BA; 1C39 574001 M24I014892BB; 1C39 574001 M22F016192BA.

**REQUESTING
DEPARTMENT:** Department of Public Works

CONTRACT TYPE: Professional Services

**SOURCE
SELECTION:** N/A

BID OPENING: N/A

**INVITATIONS
ISSUED:** N/A

**PROPOSALS
RECEIVED:** N/A

BACKGROUND: CH2M Hill/TOC, Inc., A Joint Venture, is currently providing professional services for the Infrastructure Sewer Capital Projects under the Annual Contract for Architectural and Engineering Services. It is necessary to extend these services for an additional twelve (12) months. In addition to professional services, right of way acquisition, public involvement initiatives, interim coordination for the roads, streets, bridges and storm water programs are also provided for in this amended notice to proceed.

SOURCE OF FUNDING: BOND PROGRAM

**EVALUATION TEAM
COMPOSITION:** DPW, BPRE

A RESOLUTION

BY MICHAEL BOND

James M. Canty 01-R-1989

A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE A FRANCHISE AGREEMENT WITH CITYNET TELECOMMUNICATIONS, INC., FOR THE PROVISION OF TELECOMMUNICATIONS INFRASTRUCTURE USING PUBLIC SEWERS; AND FOR OTHER PURPOSES.

WHEREAS, CityNet Telecommunications, Inc. ("CityNet") has applied for a franchise to construct telecommunications broadband infrastructure in the sewer system of the City of Atlanta;

WHEREAS, CityNet proposes to install, maintain and operate an underground telecommunications infrastructure using existing public sewers and, in turn, avoid the need for repeated construction in the public right-of-way for this purpose; and

WHEREAS, the City has determined that CityNet's proposal is governed by the comprehensive ordinance enacted by the City which governs the use of its right-of-way, pursuant to the federal Telecommunications Act, providing access to its right-of-way, on a non-discriminatory basis; and

WHEREAS, CityNet seeks to negotiate a franchise agreement with the City which provides such access and preserves the rights of the City;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVED:

Section 1: That the Mayor be and is hereby authorized to negotiate a franchise agreement with CityNet Telecommunications, Inc. for use of the public sewer system for the purpose of installing, maintaining and operating telecommunications infrastructure.

Section 2: That said negotiated franchise agreement shall be presented to the City Council of the City of Atlanta as an attachment to a franchise ordinance for consideration and adoption.

F-4